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सं. 37] नई दिल्ली, सितम्बर 7—सितम्बर 13, 2008, शनिवार/भाद्र 16—भाद्र 22, 1930
No. 37] NEW DELHI, SEPTEMBER 7—SEPTEMBER 13, 2008, SATURDAY/BHADRA 16—BHADRA 22, 1930

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक् संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 4 सितम्बर, 2008

का.आ. 2523.—केन्द्रीय सरकार, एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री के. जनार्दन रेड्डी, अधिवक्ता को विचारण न्यायालयों और अपील/पुनरीक्षण न्यायालयों में दिल्ली विशेष पुलिस स्थापना द्वारा संस्थित मामला सं. आरसी. 4(एस) 2005/मुंबई में अभियोजन अथवा आंध्र प्रदेश राज्य में विधि द्वारा स्थापित न्यायालयों में, जिन पर पूर्वोक्त धारा के उपबंध लागू होते हैं, इस मामले से उद्भूत किन्हीं अन्य विषयों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करते हैं।

[सं. 225/63/2007-एवीडी-II]

चंद्र प्रकाश, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 4th September, 2008

S.O. 2523.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government

hereby appoints Shri K. Janardhan Reddy, Advocate as Special Public Prosecutor for conducting prosecution in case No. RC 4/S/2005-Mum. instituted by Delhi Special Police Establishment in trial courts and appellate/revisional courts or any other matters arising out of the case in the courts established by law in the State of Andhra Pradesh to which provisions of the aforesaid Section apply.

[No. 225/63/2007-AVD-II]

CHANDRA PRAKASH, Under Secy.

कार्यालय मुख्य आयकर आयुक्त, जयपुर

शुद्धि-पत्र

जयपुर, 3 सितम्बर, 2008

का.आ. 2524.—आयकर अधिनियम, 1961 की धारा 10 के खण्ड (23 सी) के उपखण्ड (vi) के तहत अधिसूचना सं. 09/2007-08 दिनांक 30-11-07 के द्वारा "साल्विक जीवनशाला ट्रस्ट, जयपुर" को स्वीकृति दी गई थी। अधिसूचना के पैरा 1 को लाइन 4 में निर्धारण वर्ष 2006-07 से 2008-09 के स्थान पर "निर्धारण वर्ष 2006-07 एवं आगे के लिए" पढ़ा जाये।

[क्रमांक मुआआ/अआआ/मु/जय. 10(23सी)(vi) 2008-09/2069]

बी. एस. दिल्ली, मुख्य आयकर आयुक्त

पठित निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एस.जी.एस. इंडिया प्राइवेट लिमिटेड, सत्यभामा (जोशी बिल्डिंग) तीसरा तल, रुआ फ्रांसिसको लुईस गोम्स, पो.ओ. बोक्स 101, वास्को-डा-गामा, गोआ को, इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए वाणिज्य मंत्रालय, भारत सरकार की अधिसूचना सं. का.आ. 3975 और का.आ. 3978 तारीख 20 दिसम्बर 1965 से उपाबद्ध अनुसूची में यथाविनिर्दिष्ट खनिज और अयस्क (समूह-1) अर्थात् लौह अयस्क मैंगनीज अयस्क और बोक्साइट और (समूह-II) अर्थात् मैंगनीज डायक्साइड का निम्नलिखित शर्तों के अधीन रहते हुए गोआ में उक्त खनिजों और अयस्कों के निर्यात से पूर्व निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता देती है, अर्थात् :-

(i) मैसर्स एस.जी.एस. इंडिया प्राइवेट लिमिटेड, गोआ, खनिज और अयस्क (समूह-1) का निर्यात (निरीक्षण) नियम, 1965 खनिज और अयस्क (समूह-II) का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण पत्र देने में उनके द्वारा अपनाई गई पद्धति की जांच करने के लिए, इस निमित्त निर्यात निरीक्षण परिषद द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी;

(ii) मैसर्स एस.जी.एस. इंडिया प्राइवेट लिमिटेड, गोआ, इस अधिसूचना के अधीन अपने कृत्यों के अनुपालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण), ऐसे निर्देशों से, जो निर्यात निरीक्षण परिषद द्वारा समय-समय पर लिखित में दिए जाएं, आवद्ध होंगे।

[फा सं. 5/6/2008 ईआई एण्ड ईपी]

किरण पुरी, निदेशक

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 25th August, 2008

S.O. 2536.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules 1964, the Central Government hereby recognises M/s. S.G.S. India Private Limited, Satyabhama (Joshi Building), 3rd Floor, Rua Francisco Luis Gomes, P.O. Box 101, Vasco-de-Gama, Goa as an agency for a period of three years with effect from the date of publication of this notification, for inspection of Minerals and ores (Group-I), namely, Iron Ore, Manganese Ore and Bauxite and (Group-II), namely, Manganese Dioxide, as specified in the Schedule annexed to the notifications of the Government of India in the Ministry of Commerce vide numbers S.O. 3975 dated the 20th December, 1965 and S.O. 3978 dated the 20th December, 1965, prior to the export of the said Minerals and Ores at Goa, subject to the following conditions, namely :

(i) that M/s. S.G.S. India Private Limited, Goa shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting

the certificate of inspection under rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965 and the Export of Minerals and Ores, Group-II (Inspection) Rules, 1965, and

(ii) that M/s. S.G.S. India Private Limited, Goa in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F.No. 5/6/2008-IE & IP]

KIRAN PURI, Director

नई दिल्ली, 25 अगस्त, 2008

का.आ. 2537.—केंद्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उपनियम (2) के साथ पठित निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एस.जी.एस. इंडिया प्राइवेट लिमिटेड, 1/509 ए, ओल्ड महाबलीपुरम रोड, गवर्नमेंट स्कूल के सामने, थुराईपक्कम, चेन्नई को, इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के वाणिज्य मंत्रालय, की अधिसूचना सं. का.आ. 3975 और का.आ. 3978 तारीख 20 दिसम्बर 1965 से उपाबद्ध अनुसूची में यथाविनिर्दिष्ट खनिज और अयस्क (समूह-1) अर्थात् लौह अयस्क और (समूह-II) अर्थात् मैंगनीज डायक्साइड और फेल्डस्पार का निम्नलिखित शर्तों के अधीन रहते हुए चेन्नई में उक्त खनिजों और अयस्कों के निर्यात से पूर्व निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता देती है, अर्थात् :-

(i) मैसर्स एस.जी.एस. इंडिया प्राइवेट लिमिटेड, चेन्नई खनिज और अयस्क (समूह-1) का निर्यात (निरीक्षण) नियम, 1965 खनिज और अयस्क (समूह-II) का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण पत्र देने में उनके द्वारा अपनाई गई पद्धति की जांच करने के लिए, इस निमित्त निर्यात निरीक्षण परिषद द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी;

(ii) मैसर्स एस.जी.एस. इंडिया प्राइवेट लिमिटेड, चेन्नई, इस अधिसूचना के अधीन अपने कृत्यों के अनुपालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण), ऐसे निर्देशों से, जो निर्यात निरीक्षण परिषद द्वारा समय-समय पर लिखित में दिए जाएं, आवद्ध होंगे।

[फा सं. 5/7/2008-ईआई एण्ड ईपी]

किरण पुरी, निदेशक

New Delhi, the 25th August, 2008

S.O. 2537.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules 1964, the Central Government hereby recognises M/s. S.G.S. India Private Limited, 1/509A, Old Mahabalipuram Road, Opposite Government School, Thuraiyapakkam, Chennai as an agency for a period of three years with effect from the date of publication of this notification, for

inspection of Minerals and ores (Group-I), namely, Iron Ore, and (Group-II), namely, Barytes, Red Oxide and Feldspar, as specified in the Schedule annexed to the notifications of the Government of India in the Ministry of Commerce vide numbers S.O. 3975 dated the 20th December, 1965 and S.O. 3978 dated the 20th December, 1965, prior to the export of the said Minerals and Ores at Chennai, subject to the following conditions, namely :-

(i) that M/s. S.G.S. India Private Limited, Chennai shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Minerals and Ores (Group-I) (Inspection) Rule, 1965 and the Export of Minerals and Ores, Group-II (Inspection) Rules, 1965, and

(ii) that M/s. S.G.S. India Private Limited, Chennai in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 5/7/2008-I&Q/PI]
KIRAN PURI, Director

नई दिल्ली, 27 अगस्त, 2008

का.आ. 2538.—केंद्रीय सरकार, निर्यात (कच्चाटो निर्यात और निरीक्षण) नियम, 1965 के नियम 12 के अधिनियम (2) के अन्तर्गत पठित निर्यात (कच्चाटो निर्यात और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मित्रा एस.के. प्राइवेट लिमिटेड, एच.एम.एम-13, कोंएसणमआईडोसी, इंडस्ट्रियल इस्टेट, दाम कोट, होस्पेट-583203 को, इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के खाणिक मंत्रालय की अधिसूचना से का.आ. 3975 तारीख 20 दिसम्बर 1965 में उपाबद्ध अनुसूची में वर्णित निर्यात खनिज और अयस्क (समूह-1) अर्थात् लौह अयस्क और मैंगनीज अयस्क का निर्यात से पूर्व निम्नलिखित शर्तों के अधीन होस्पेट में उक्त खनिजों और अयस्कों का निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता देती है, अर्थात् :-

(i) मैसर्स मित्रा एस.के. प्राइवेट लिमिटेड, होस्पेट, खनिज और अयस्क (समूह-1) का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण पत्र देने के लिए उनके द्वारा अपनाई गई प्रणाली की जांच करने के लिए, इस निमित्त निर्यात निरीक्षण परिषद द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देना;

(ii) मैसर्स मित्रा एस.के. प्राइवेट लिमिटेड, होस्पेट, इस अधिसूचना के अधीन अपने कृत्यों के अनुपालन में निदेशक (निरीक्षण एवं क्वालिटी नियंत्रण), निर्यात निरीक्षण परिषद द्वारा समय-समय पर लिखित रूप में दिए गए निर्देशों से आगुत होना।

[फा सं. 5/5/2008-ईआई एण्ड टी।]

New Delhi, 27th August, 2008

S.O. 2538.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Export (Quality Control and Inspection) Act, 1963 (2 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Mitra S.K. Private Limited, Plot No. M-13, KSSIDCO, Industrial Estate, Dam Kot, Hospet-583203 as an agency for a period of three years with effect from the date of publication of this notification, for inspection of Minerals and ores (Group-I) namely, Iron Ore, and Manganese Ore as specified in the Schedule annexed to the notifications of the Government of India in the Ministry of Commerce number vide S.O. 3975 dated the 20th December, 1965 prior to the export of the said Minerals and Ores at Hospet, subject to the following conditions, namely :-

(i) that M/s. Mitra S.K. Private Limited, Hospet shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Minerals and Ores (Group-I) (Inspection) Rules, 1965;

(ii) that M/s. Mitra S.K. Private Limited, Hospet in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 5/5/2008-I&Q/PI]
KIRAN PURI, Director

नई दिल्ली, 27 अगस्त, 2008

का.आ. 2539.—केंद्रीय सरकार, निर्यात (कच्चाटो निर्यात और निरीक्षण) नियम, 1965 के नियम 12 के अधिनियम (2) के अन्तर्गत पठित निर्यात (कच्चाटो निर्यात और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मित्रा एस.के. प्राइवेट लिमिटेड, एच.एम.एम-13, कोणसपुरम, चेन्नई-600013 को, इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के खाणिक मंत्रालय की अधिसूचना से उपाबद्ध अनुसूची में वर्णित निर्यात खनिज और अयस्क (समूह-1) अर्थात् लौह अयस्क और मैंगनीज अयस्क, मैंगनीज डायऑक्साइड को निरीक्षण का निर्यात से पूर्व निम्नलिखित शर्तों के अधीन रहते हुए चेन्नई में उक्त खनिजों और अयस्कों का निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता प्रदान करना है, अर्थात् :-

(i) मैसर्स मित्रा एस.के. प्राइवेट लिमिटेड, चेन्नई, खनिज और अयस्क (समूह-1) का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण पत्र देने के लिए उनके द्वारा अपनाई गई प्रणाली की जांच करने के लिए, इस

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

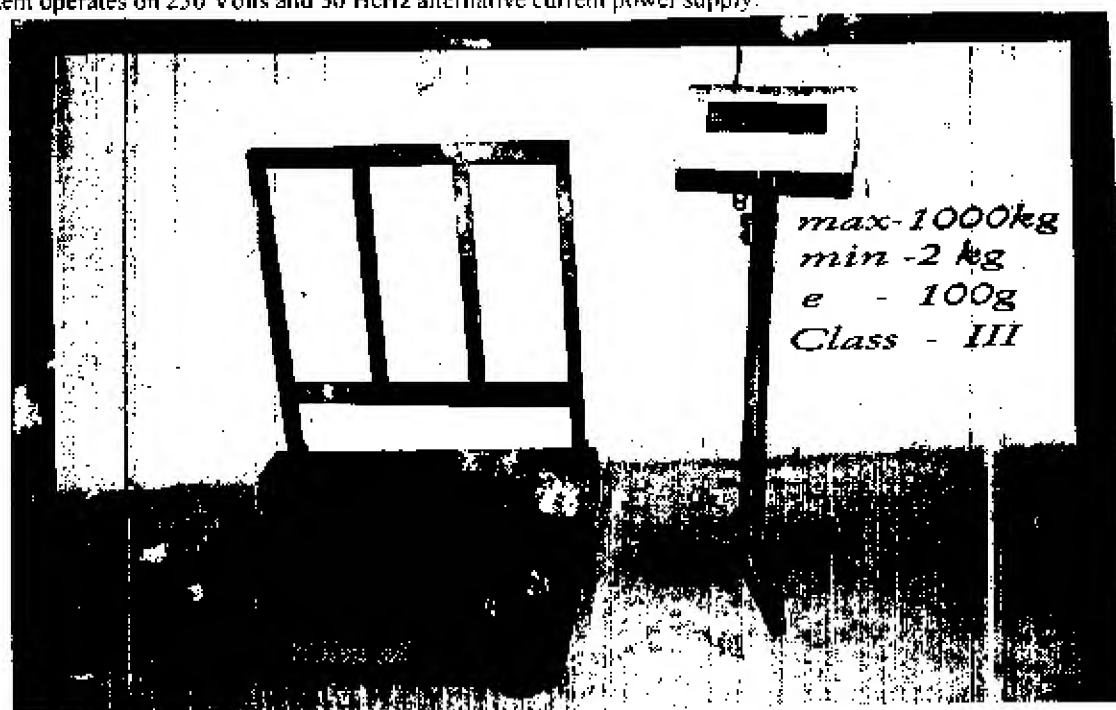
(Department of Consumer Affairs)

New Delhi, the 30th June, 2008

S.O. 2541.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (Accuracy Class-III) of series "KPS" and with brand name "KINAL" (hereinafter referred to as the said Model), manufactured by M/s. Kinal Scale Manufacturing Works, 9-Devasya Bungalows, Nicol Naroda Road, Opp. Manohar Villa, Nicol, Ahmedabad, Gujarat and which is assigned the approval mark IND/09/08/129;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1,000kg. and minimum capacity of 2kg. The verification scale interval (e) is 100g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.



Holes are being drilled to the bottom and top cover of the indicator of the instrument and a sealing wire is passed through these holes and then lead seal is applied. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg. and up to 5,000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^1 , 2×10^1 or 5×10^1 , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

S.O. 2541-2 (60)/20081

R. MANI CHANDRAN

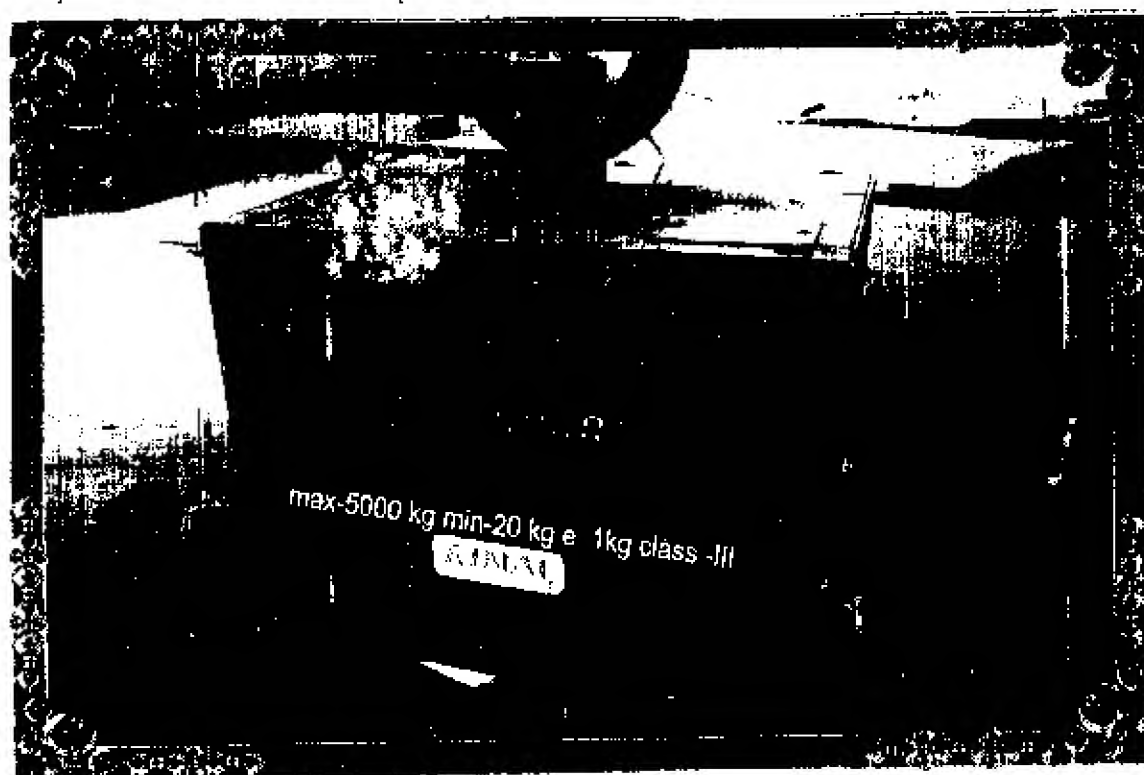
Secretary

New Delhi, the 30th June, 2008

S.O. 2543.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Crane type) with digital indication of medium accuracy (Accuracy Class-III) of series "KCS" and with brand name "KINAL" (hereinafter referred to as the said model), manufactured by M/s. Kinal Scale Manufacturing Works, 9-Devasya Bungalows, Nicol Naroda Road, Oppp. Manohar Villa, Nicol, Ahmedabad, Gujarat and which is assigned the approval mark IND/09-08-130;

The said model is a strain gauge type load cell based non-automatic weighing instrument (crane type) with a maximum capacity of 5000 kg. and minimum capacity of 20kg. The verification scale interval (e) is 1kg. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.



Holes are being drilled to the bottom and top cover of the indicator of the instrument and a sealing wire is passed through these holes and then lead seal is applied. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 30 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (60)/2008]

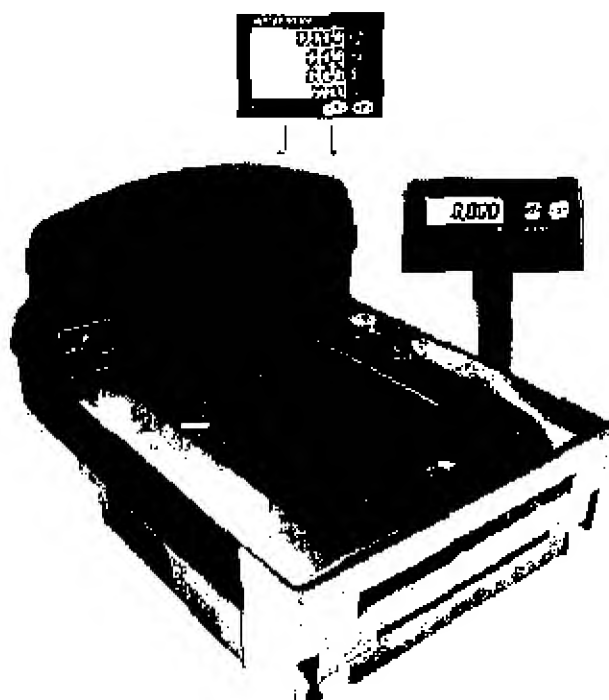
R. MATHURBOOTHAM, Director of Legal Metrology

नं० दि० क्रो. 4 जुलाई, 2008

का.आ. 2544.]—केंद्रीय सरकार का, विहित प्रक्रियाएँ सेटलमेंट मीनिस्ट्रिट (एन एम आई), ने प्रवैद द्वारा जारी मॉडल अनुमोदन प्रमाण-पत्र के साथ उक्त प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट के वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का (66) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और द्रा बाल की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथावत् प्रयोग स्थान और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा 37 द्वारा शर्तियों को प्रयोग करने हुए मैसर्स सेटलर सेलेंड्रु इम्., 1150 डिस्कोर्न हाउस, बॉम्बे, तेलिफोन नं० 43085-6712 यू.एस.ए. द्वारा या इसी कंपनी द्वारा जहाँ और विनिर्मित "डीआईवीए" शृंखला के अंकक सूचन सहित अस्वचालित दोहन उपकरण (टेबल टॉप प्रकार) के पालन का निर्णय इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और भारत में बिना किसी परिश्रम या परिश्रम के मैसर्स इलेक्ट्रॉन प्रालि. पी. 29, जीआईटीसी इलेक्ट्रॉनिक्स इस्ट. सेक्टर-25 गांधी नगर 382 044, गुजरात द्वारा विपणित 2007 के अनुमोदन निह आई एन डी 109208 184 स्माटर्नलिज किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल भार सेल आधारित अस्वचालित (टेबल टॉप प्रकार) का दोहन उपकरण है। जिसमें 12 वोल्ट या उससे अधिक के सत्यापन मापमान अंतराल के लिए एन ए 3000 सत्यापन मापमान अंतराल के सम्बन्ध में 6 कि.ग्रा. से Max. 300 कि.ग्रा. की रेंज में अधिकतम क्षमता वाले हैं। डिजिटल क्रिस्टल टाइमर (एल सी डी) प्रदर्शक प्रणाली उपदर्शित करता है। उपकरण 2.5 वोल्ट सी सी या 1.5 वोल्ट डी सी या ए सी डी से एडाप्टर या हॉस्ट कम्प्यूटर पर काम करता है।



परीक्षण को सफल करने के लिए छंद में से सॉलिंग प्लेट और सीलिंग पच को स्थापित किया जाएगा। यह जो काम जाएगा शेष सेल प्लेट में छंदों के माध्यम से तब सील को निकाला जाएगा और तब सील को लगाया जाएगा। मॉडल की सीलिंग प्रणाली का स्थापित इशारा ऊपर दिया गया है।

नं० दि० क्रो. 4 जुलाई, 2008

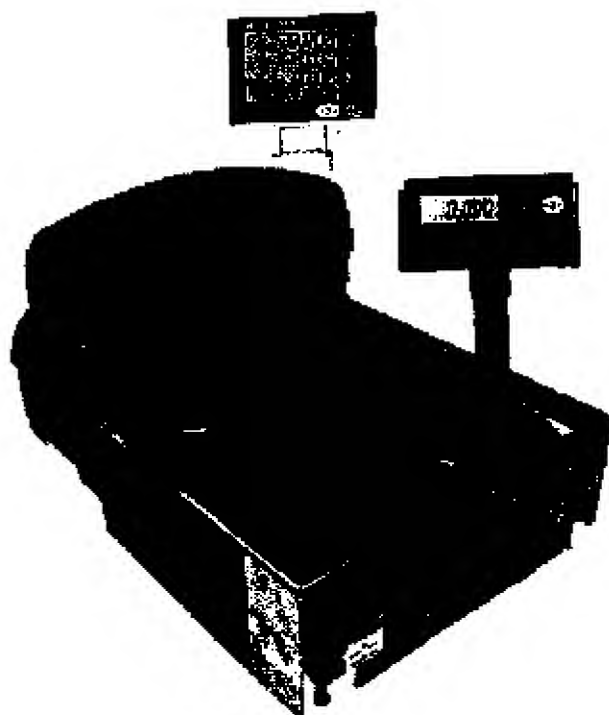
अतः मातृ-प्रमाण प्रमाणित, विधिक प्रमाणित

New Delhi, the 4th July, 2008

S.O. 2544.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, along with the Model approval certificate issued by the Netherlands Meetinstituut (NMI), Netherlands is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Tabletop type) with digital indication of "DIVA" series of medium accuracy (accuracy Class-III) (hereinafter referred to as the said model), manufactured by M/s. Mettler—Toledo Inc., 1150 Dearborn Drive, Worthington, Ohio 43085-6712, United States of America or manufactured anywhere else by the same company and marketed in India without any alteration before or after sale in India by M/s. Intellicon Pvt. Ltd., B-20, GIDC Electronics Est., Sector-25, Gandhi Nagar-382 044, Gujarat and which is assigned the approval mark IND/09/08/184;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of $6\text{kg} \leq \text{Max} \leq 30\text{kg}$ in respect of verification scale interval $n \leq 3000$ for $e \geq 2\text{g}$. The liquid crystal diode (LCD) display indicates the weighing result. The instrument operates on 7.5V DC or 12 V DC via AC/DC adapter or host computer.



For sealing the machine a custom sealing plate and sealing screw is installed through the hole. The screw is tightened and a wire seal is run through the holes in the plate and screw and then seal is applied. A typical schematic diagram of sealing provision of the model is given above.

[F. No. WM-21 (02)2008]

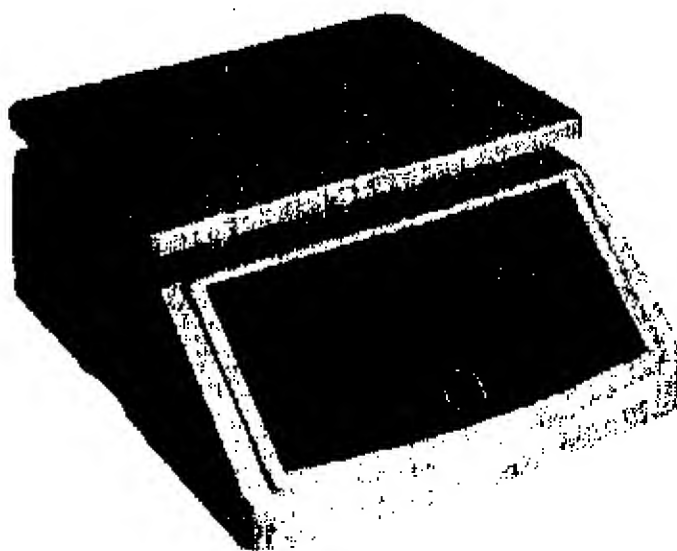
R. MATHURBOOTHAM, Director of Legal Metrology

[illegible]

New Delhi, the 7th July, 2008

S.O. 2545.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type—dual range) with digital indication of “Cub” series of high accuracy (Accuracy class-II) and with brand name “METTLER TOLEDO” (hereinafter referred to as the said model), manufactured by M/s. Mettler-Toledo (Chang Zhou) Measurement Technology Ltd., 111, West Taihu Road, Xinbei District, Changzhou, Jiangsu-213 125, P.R.C. and marketed in India without any alteration before or after sale by M/s. Mettler Toledo India Pvt. Ltd., Amar Hills, Saki Vihar Road, Powai, Mumbai-400 072, Maharashtra and which is assigned the approval mark IND/09/08/159,



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type—dual range) with a maximum capacity of 15kg and minimum capacity of 10g. The verification scale interval (e) is 0.2g up to 7.5kg and 0.5g above 7.5kg and up to 15kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

The sealing is done below the weigh pan, where there are two holes screws, through which a leaded wire is fastened for receiving the verification seal and stamp. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg, with verification scale interval (n) in the range of 100 to 50,000 for ‘e’ value of 1mg. to 59mg. and with verification scale interval (n) in the range of 5,000 to 50,000 for ‘e’ value of 100mg. or more and with ‘e’ value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (77)/2008]

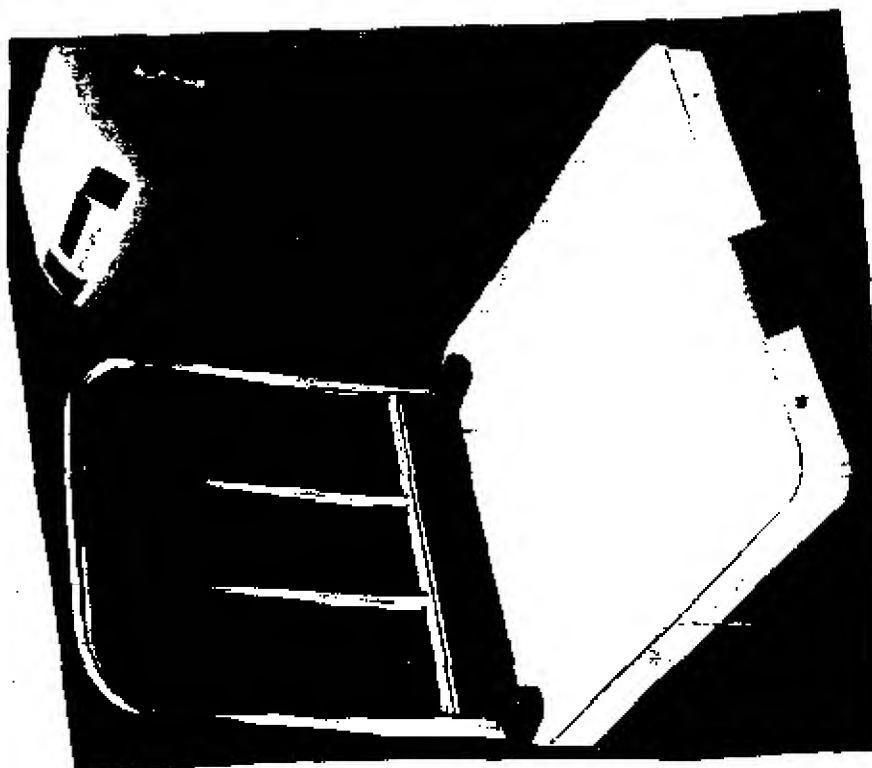
R. MATHURBOOTHAM, Director of Legal Metrology

New Delhi, the 7th July, 2008

S.O. 2546.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (Accuracy class-III) of series "GTC-PI" and with brand name "EASY" (heremafter referred to as the said model), manufactured by M/s. Global Trading Corporation, D. No. 29-1-5, Shop No. 2, L. N. Complex, Seshadri Sastri Street, Governorpet, Vijayawada-520002, A. P. and which is assigned the approval mark IND/09/08/135;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000 kg and minimum capacity of 4 kg. The verification scale interval (e) is 200 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.



On the right side of the indicator 2 holes are made by cutting the diagonally opposite inner plates which are fastened by a leaded wire for receiving the verification stamp and seal. The instrument can not be opened without tampering the seal. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and upto 5000 kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 mg or more and with 'e' value of 1×10^1 , 2×10^1 or 5×10^1 , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

(E. No. WM-21/81/2008)

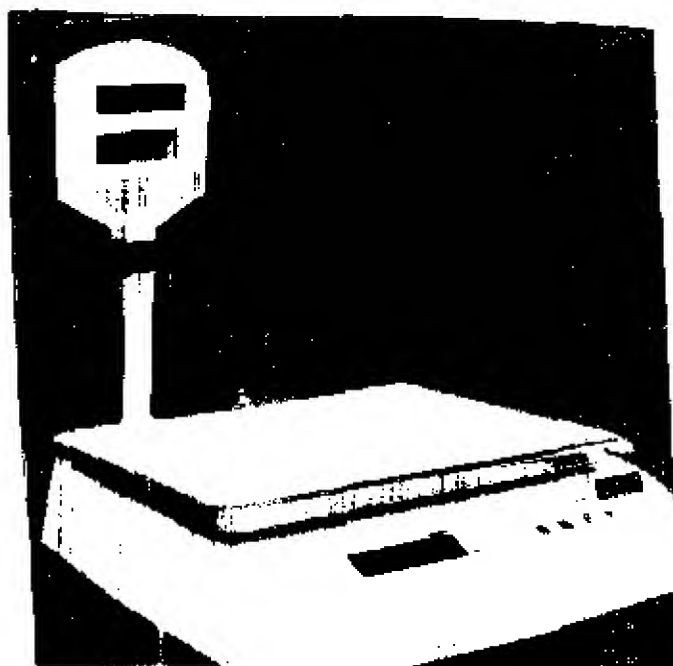
K. NARAYAN REDDY OFHAM, Director of Legal Metrology

नई दिल्ली, 7 जुलाई, 2008

क्रा.आ. 2547.—केन्द्रीय सरकार का, निम्नलिखित अधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (बीच दी गई आकृति दर्शाता है) और माप मानक अधिनियम, 1976 (1976 का 60) और ब्राउ तथा माप मानक (मॉडलों का अनुमान) नियम, 1987 के उपयोग के अनुकूल है और इस बात की संभावना है कि व्यापार प्रयोग की अवधि में भी उक्त मॉडल व्यवहार्य बरतार रहेगा और विभिन्न परिस्थितियों में व्यवहार्यता सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36, सी. 32, धारा (7) और उप-धारा 18, द्वारा शर्तियों का प्रयोग करने हुए मैसर्स एनोबल एलेक्ट्रॉनिक्स, डी. नं. 29, ए. 5, शांति नं. 2, प्लॉट एन. कामलैक्स, शेफाली शास्त्री स्ट्रीट, गेम्हापोस्ट, विजयवाड़ा-520002 द्वारा विनिर्मित उक्त यन्त्र (व्यापारिक वर्ग-II) वाले "सेक्टर-एन" प्रकार के अंकक सूचन सांख्यिक उपकरणित तौलन उपकरण (टैबुलटाप प्रकार) को मान्यता, जिसके कोड का नाम "ईजी" है, प्रदान करने के पश्चात् उक्त मॉडल के मान्यता प्राप्त और जिसे अनुमोदन चिह्न आई एन डी 08/08/03 सम्पूर्णित किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल एक विद्युत संचालित प्रकार का भार माप अवधारित अन्वयस्थित तौलन उपकरण (टैबुलटाप प्रकार) है। इसकी अधिकतम क्षमता 30 कि.ग्र. है और न्यूनतम क्षमता 100 ग्र. है। इसका मापमान अंतराल (ई) 2 ग्र. है। इसमें एक अभ्यन्तरित युक्ति है जिसका शून्य प्रतिपात व्यवस्थापनकर अधिन अध्वेयतुल्य प्रभाव है। उपकरण का मापन दायरा 0.0001 (एल ई डी) प्रत्येक तौलन परिणाम इंगित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रणाली पर कार्य करता है।



उपकरण के माप और अतिरिक्त फलनों को विस्तारित करने वाली हार्ड को रेंड किये जायेंगे जिन्हें एन एन ई एन तार द्वारा स्टेस और सील का संयोजन प्राप्त करने के लिए चूँदा जाएगा। योधा को मान्यता प्रकाश को छोड़ता नहीं जायेगा। उपकरण को मोलचंद करने के उपयोग का एक प्रयोगी को ब्रह्मकुट्टी संयोजन उपकरण दिया गया है।

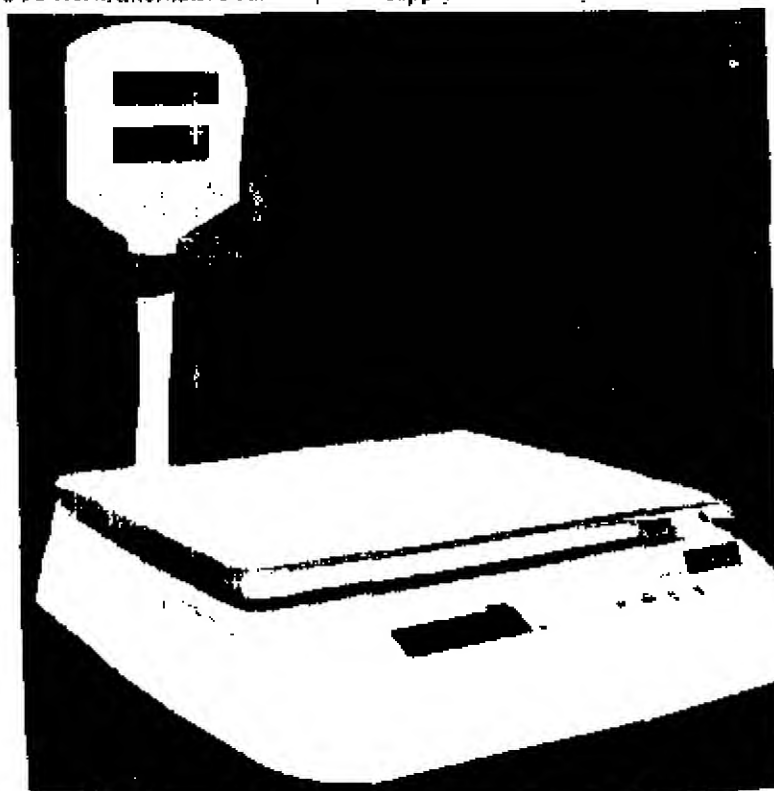
अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36, उप-धारा 12) द्वारा प्रदत्त शर्तियों का प्रयोग करने हुए यह घोषणा करती है कि उक्त मॉडल का अनुमान के इस प्रकार पर का उपयोग करने विधानता द्वारा उसी सिद्धांत, डिजाइन, निर्माण और उसी सामग्री से, जिससे उक्त अनुमानित मॉडल का विनिर्माण किया गया है, विनिर्मित सभी नुस्खों के समे हो सकें, यथादीना (ई) संयोजन के तौलन उपकरण भी होंगे जो 1 मि.ग्र. या 50 मि.ग्र. तक के "ई" मान के लिए 100 ग्र. या 500 ग्र. तक के रेंज में संयोजन मापमान संयोजन, एन. और 100 मि.ग्र. या इन्च अधिका के "ई" मान के लिए 5000 ग्र. से 50,000 तक के रेंज में संयोजन मापमान अंतराल (एन) संचालित हो सकें, तक की अधिकतम क्षमता

New Delhi, the 7th July, 2008

S.O. 2547.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication high accuracy (Accuracy class-II) of series "GTC-1P" and with brand name "EASY" (hereinafter referred to as the said model), manufactured by M/s. Global Trading Corporation, D. No. 29-1-5, Shop No. 2, L. N. Complex, Seshadri Sastry Street, Governorpet, Vijayawada-520002, A. P. and which is assigned the approval mark IND/09/08/133:

The said model is a strain gauge type load cell based non-automatic weighing instrument with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.



On the right side of the balance 2 holes are made by cutting the diagonally opposite inner plates which are fastened by a loaded wire for receiving the verification stamp and seal. The instrument can not be opened without tampering the seal. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1 mg. to 50 mg. and with verification scale interval (n) in the range of 5,000 to 50,000 for 'e' value of 100 mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (81)/2008]

R. MATHURBOOTHAM, Director of Legal Metrology

New Delhi, the 7th July, 2008

S.O. 2548.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "GTC-TB" series of medium accuracy (Accuracy class-III) and with brand name "EASY" (hereinafter referred to as the said model), manufactured by M/s. Global Trading Corporation, D. No. 29-1-5, Shop No. 2, L. N. Complex, Seshadri Sastry Street, Governorpet, Vijayawada-520002, A. P. and which is assigned the approval mark [ND/09/08/134];

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.



On the right side of the balance 2 holes are made by cutting the diagonally opposite inner plates which are fastened by a leaded wire for receiving the verification stamp and seal. The instrument can not be opened without tampering the seal. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg. to 2g. and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(81)2008]

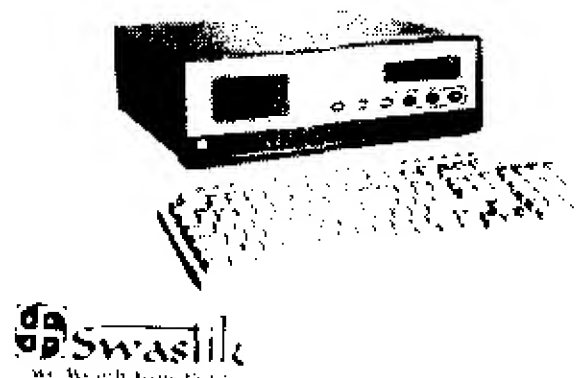
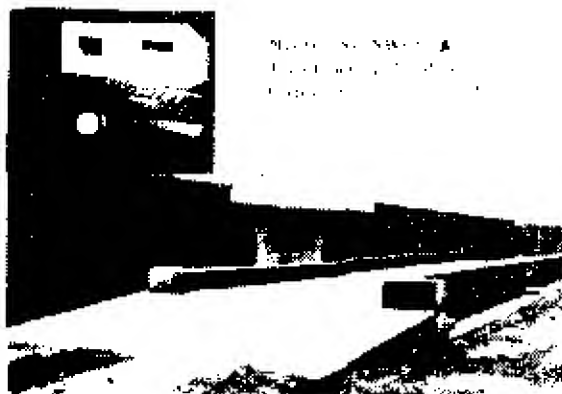
R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 23 जुलाई, 2008

का.आ. 2549.—केंद्रीय सरकार का, विहित अधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 64) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अद्य, केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सदरन वेडन इंस्ट्रुमेंट (पी) लि., "आशियाता" भिल्डिंग-3, त्रिवला-दुर्ग छत्तीसगढ़ द्वारा विनिर्मित मध्यम गंधर्वता (यथार्थता वर्ग-II) वाले "एसडब्ल्यू 001ए" शृंखला के अंकक सूचन सहित अस्वचालित तौलन उपकरण (वेजिज प्रकार) को मॉडल का, जिसके बांड का नाम "स्वास्तिक" है (जिसमें इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन टी (ए) 080064 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गज प्रकार का भार सेल आधारित अस्वचालित तौलन उपकरण (वेजिज प्रकार) है। इसकी अधिकतम क्षमता 60 टन है और न्यूनतम क्षमता 400 कि.ग्रा. है। सन्वापन मापमान अंतराल (ई) 20 कि.ग्रा. है। इसमें एक अभ्येयतुलन युक्ति है जिसका शत प्रतिशत व्यवहलनात्मक भारित आधेयतुलन प्रभाव है। प्रकारात्मक डाटाबेड (एल ई डी) प्रदर्श तौलन मापमान उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



कैबिनेट को पीछे एक बन्द बटन है जिसमें सीलिंग होता है, को तेलड किया गया और स्थिर बटन को नीचे में हलद वाला पेच और कैबिनेट के को पीछे सीलिंग तार दी गई है। टूट को कैबिनेट में डालने को बन्द पेच को कसा जाता है और सीलिंग तार को छेदों में से निकाल कर पंचिंग द्वारा सील किया जाता है। रोल को छोड़ पिन पेच को नहीं खोलना जा सकता। मॉडल को सीलबंद करण के आधार पर एक प्ररूपी योजनाचड्ड डायग्राम ऊपर दिया गया है।

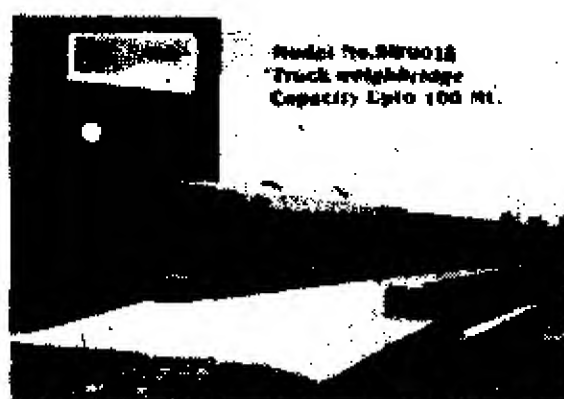
और केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उक्त विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित नए शृंखला के वैसे ही मॉक, यथार्थता और कार्यक्षमता के तौलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए, 500 से 10,000 टन के रेंज में सन्वापन मापमान अंतराल (एल ई डी) रूनिन 5 टन से अधिक और 2000 टन तक को अधिकतम क्षमता वाले हैं और "ई" मान 10³, 10⁴, 10⁵, 10⁶, के हैं, जो धनात्मक या ऋणमक धर्मांक या शून्य के समनुन्य हैं।

New Delhi, the 25th July, 2008

S.O. 2549.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Weighbridge type) with digital indication of medium accuracy (Accuracy class-III) of series "SW 001A" and with brand name "SWASTIK" (hereinafter referred to as the said model), manufactured by M/s. Southern Weighing Instruments (P) Ltd., 'Ashiana' Bhilai-3, Distt. Durg, Chattishgarh and which is assigned the approval mark IND/09/08/164;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Weighbridge type) with a maximum capacity of 60 tonne and minimum capacity of 400kg. The verification scale interval (e) is 20kg. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.



A fixed locking stud with sealing hole is welded in the back of the cabinet and a screw with hole and sealing wire in the back of the cabinet tray is provided in the centre of the fixed stud. After inserting the tray in the cabinet the screw is tightened and the sealing wire is inserted through the holes and sealed by punching. The screw can not be opened unless the seal is broken. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and up to 200 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

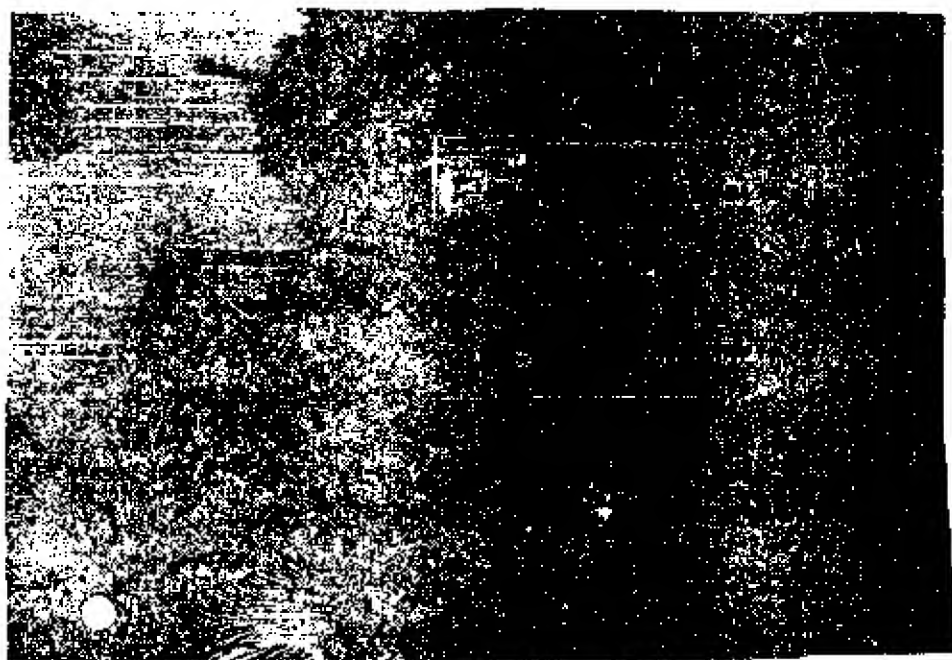
[F. No. WM-21 (30)/2008]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 25 जुलाई, 2008

का.आ. 2550.—केंद्रीय सरकार का, विहित अधिकारों द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) काट और मस मानक अधिनियम, 1976 (1976 का 60) और, काट तथा मस मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (1) और उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एल सी एस कन्ट्रोल्स प्रा. लि., प्लॉट नं. 34 और 35, फास्ट बिक स्ट्रीट, मेहरू नगर, नैत्रई-600 044 द्वारा विनिर्मित यथार्थता वर्ग X (1) वाले "ए डब्ल्यू-एस एफ एस-एन" शृंखला के स्वायत्त ऑप्टिमेंट्रिक फिलिंग उपकरण (वे फिलर) के मॉडल का, जिसके ब्रांड का नाम "एल सी एस" है (जिसमें इसमें इसके पश्चात् उक्त मोडल दर्ज भया है) और जिसे अनुमोदन चिह्न आई एन सी 200 07 262 अधिनियमित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।



उक्त मॉडल एक विस्तृत गेज प्रकार का भार मेल आधारित स्वायत्त सेन्सिटिव ऑप्टिमेंट्रिक फिलिंग (वे फिलर) उपकरण है। इसकी अधिकतम क्षमता 50 कि.ग्रा. है इसकी अधिकतम फिलर दर 5 फिलर प्रति मिनट है। मशीन को नॉन-फ्री फ्लोइंग उत्पादों जैसे पाउडर, गूना, कणों इत्यादि की फिलिंग के लिए डिजाइन किया गया है। प्रकाश उत्सर्जक इन्फ्रारेड (एल ई डी) प्रदर्श तोलन परिणाम उभारी करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यक्षीय भार विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के स्ट्रॉक के अतिरिक्त मशीन को कम्प्यूटरी आवश्यकताओं के लिए खोलने में रोकने के लिए गैलवैनेट भी किया जाएगा और मॉडल को विक्री से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सॉफ्ट डायग्राम, निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तित नहीं किया जाएगा।

और केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत जारी विनिर्माण द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कम्प्यूटेशन के तैलन उपकरण भी होंगे जो 10 कि.ग्रा. से 100 कि.ग्रा. की रेंज में हों।

New Delhi, the 25th July, 2008

S.O. 2558.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (3) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of Automatic Gravimetric Filling Instrument (Weigh filler) belonging to accuracy class X (1) of 'AW-SFS-H' series with brand name 'LCS' (herein referred to as the said Model), manufactured by M/s. LCS Controls Private Limited, Plot No. 34 & 35, First Link Street, Nehru Nagar, Chennai--600 041, Tamil Nadu and which is assigned the approval mark IND/09/07 262;



The said model is a strain gauge type load cell based Automatic Gravimetric Filling Instrument (Weigh filler). Its maximum capacity is 50kg. Its maximum fill rate is 6 fills per minute. The machine is designed for filling the non-free flowing products such as powder, spices, granules etc. The light emitting diode (LED) display indicates the weighing result. The instruments operates on 230V, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with capacity in the range of 10kg to 100kg manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

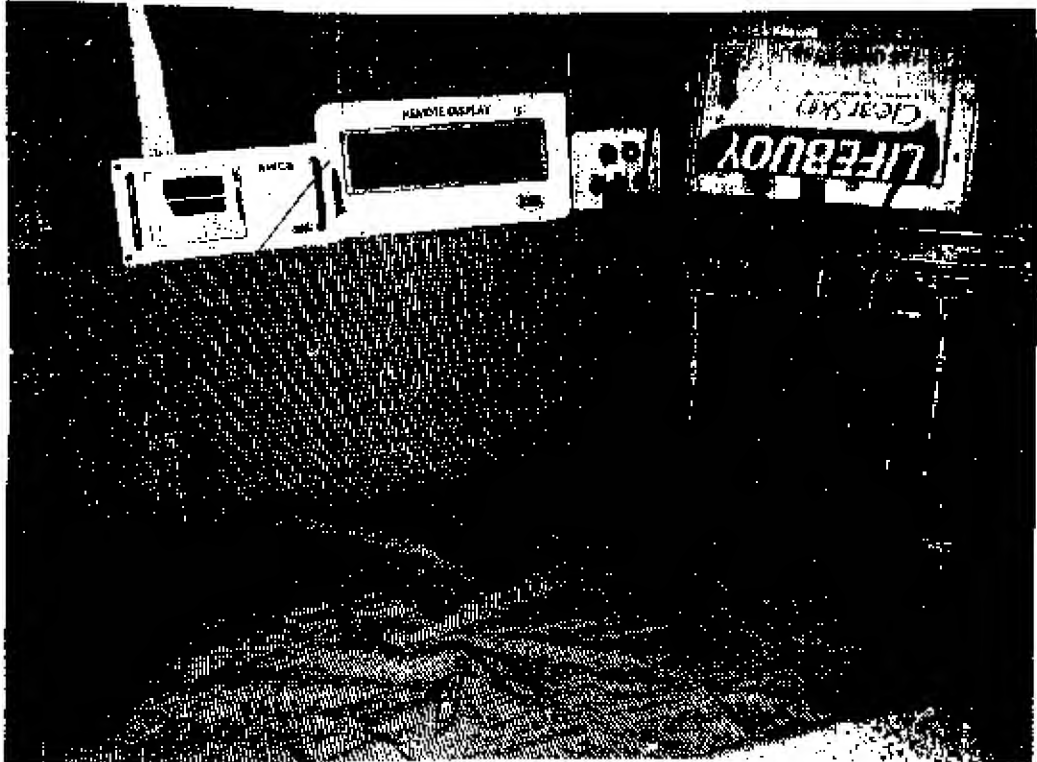
[F.No. WM-21 (116)2007]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 25 जुलाई, 2008

का.आ. 2551.—केन्द्रीय सरकार को, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) वाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा वाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 को उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता वन ए रेंजिंग और विभिन्न परिस्थितियों में उपयोग सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एल सी एस कंट्रोल्स प्रा. लि., प्लॉट नं. 34 और 35, फर्स्ट लिंक स्ट्रीट, नेहरू नगर, चैन्नई-600 041 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-1A) वाले "ए टक्यू सी एस" शृंखला के अधिक सूचन सहित, अस्वचालित तोलन उपकरण (डबलटाप काऊंटिंग सुविधा के साथ) के मॉडल को जिसके ब्रांड का नाम "एल सी एस" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी.09/07/263 सम्पुर्णदर्शित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।



उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित (डबलटाप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 10 कि.ग्रा. है और न्यूनतम क्षमता 40 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन सुविधा है जिसका शत प्रतिशत व्यकलात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्पन्नक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है। इसमें नग गिनने की भी सुविधा है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए मोलबन्द भी किया जाएगा और मॉडल को विक्री से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम निष्पादन सिद्धांत आदि को शर्तों पर परिवर्तित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्दिष्ट द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उन्नी शृंखला के वैसे ही मेक, यथार्थता और कार्यप्रणाल्य के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक के "ई" मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" भार के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^6 , 2×10^6 , 5×10^6 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

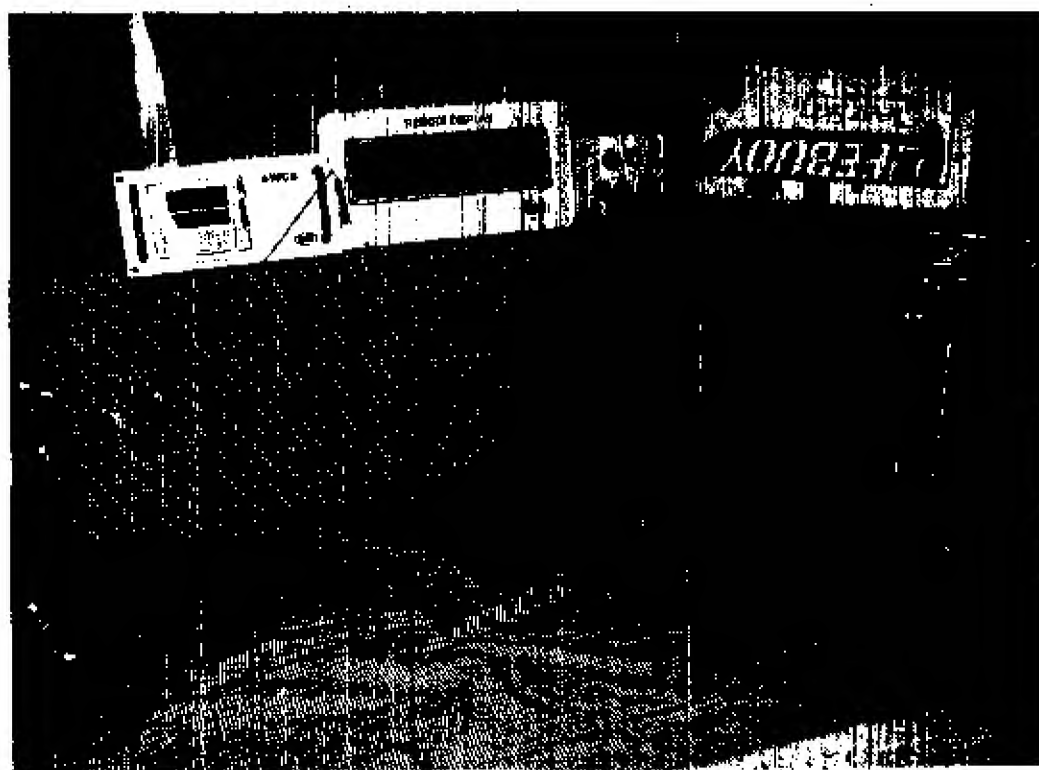
[फा. सं. डक्यू एम-21(116)/2007]

आर. नादुरगुणम, निदेशक, विधिक माप विज्ञान

New Delhi, the 25th July, 2008

S.O. 2551.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Counting Table top with facility) with digital indication of "AW-CS" series of medium accuracy (accuracy class-III) and with brand name "LCS" (hereinafter referred to as the said Model), manufactured by M/s. LCS Controls Private Limited, Plot No. 34 & 35, First Link Street, Nehru Nagar, Chennai—600 041, Tamil Nadu and which is assigned the approval mark IND/09/07/263;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Counting Scale) with a maximum capacity of 10kg and minimum capacity of 40g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instruments operates on 230V, 50Hz alternative current power supply. It is also having piece counting facility.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg with verification scale interval(n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

(F. No. WM-21 (116)/2007)

R. MATHURBOOTHAM, Director of Legal Metrology

भारतीय मानक ब्यूरो

नई दिल्ली, 27 अगस्त, 2008

का. अ. 2552.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संशोधित भारतीय मानक की संख्या और वर्ष संख्या	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)
1. आईएस 13849 : 1993	संशोधन संख्या 8, जुलाई 2008	25 अगस्त, 2008

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयंबटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी/गजट]

ए. के. सैनी, वैज्ञानिक 'एक' एवं प्रमुख (सिविल इंजीनियरी)

BUREAU OF INDIAN STANDARDS

New Delhi, the 27th August, 2008

S.O. 2552.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No. & Year of the Indian Standards	No. & Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)
1. IS 13849 : 1993	Amendment No. 8, July 2008	25 August, 2008

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: CED/Gazette]

A.K. SAINI, Sc 1st & Head (Civil Engg.)

नई दिल्ली, 1 सितम्बर, 2008

का. अ. 2553.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संशोधित भारतीय मानक की संख्या और वर्ष संख्या	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)
1. आईएस 15169 : 2002 औद्योगिक उपयोग को सिलई मशीनों के लिए सुइयों-विश्लिष्ट	संशोधन नं. 1, जुलाई 2008	31 जुलाई, 2008

इस संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयंबटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ : एपीडी/जी-2/11]

New Delhi, the 1st September, 2008

S.O. 2553.— In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments of the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 15169 : 2002 Needles for Sewing Machines for Industrial Purposes—Specification	Amendment No. 1, July 2008	31-July, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: MED/G-2:1]

C.K. VEDA, Sc. 'F' & Head (Mechanical Engineering)

नई दिल्ली, 2 सितम्बर, 2008

का. आ. 2554.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानक (कों) के विवरण नीचे अनुसूची में दिये गये हैं वे स्थापित हो गए हैं :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हों, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आईएस 15770 : 2008 लाईट डीजल तेल-विशिष्ट	कुछ नहीं	जुलाई, 2008
2.	आईएस 15799 : 2008 तार और बिटुमनी सामग्री की परीक्षण विधियाँ-बिटुमेन का टिकावपन ज्ञात करना	कुछ नहीं	जुलाई, 2008

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : पीसीडी/जी-7 (गजट)]

डा. (श्रीमती) विजय मलिक, निदेशक एवं प्रमुख (पीसीडी)

New Delhi, the 2nd September, 2008

S.O. 2554.— In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & Year and title of the Indian Standards Established	No. & Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 15770 : 2008 Light diesel oil—Specification	None	July, 2008
2.	IS 15799 : 2008 Method for testing tar and bituminous materials—Determination of durability of bitumen	None	July, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. FCD-G-7(Gazette)]

Dr. (Smt.) VIJAYMAJUM, Director & Head (PCT)

नई दिल्ली, 2 सितम्बर, 2008

का. आ. 2555.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (7c) में अनुसूची में धारा 4 मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के संशोधन के विवरण नीचे अनुसूची में दिये गए हैं वे स्वीकृत हो गए हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या, वर्ष और शीर्षक	संशोधन संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1	आईएस 10319 : 1982 इथियोन इम्यूलसीफिकेशन सान्द्र की विशिष्टि	संशोधन संख्या 3 वर्ष 2007	31 मार्च, 2007
2	आईएस 1051 : 1980 पायरीथ्रम अर्कों की विशिष्टि (दूसरा पुनरीक्षण)	संशोधन संख्या 4 वर्ष 2006	31 मार्च, 2007
3	आईएस 10369 : 1982 इथियोन, तकनीकी की विशिष्टि	संशोधन संख्या 1 वर्ष 2007	31 मार्च, 2007
4	आईएस 11785 : 1986 केपटन (आद्रकरणीय पाउडर) डब्ल्यू पी की विशिष्टि	संशोधन संख्या 2 वर्ष 2006	31 मार्च, 2007
5	आईएस 14251 : 1995 केपटन, तकनीकी-विशिष्टि	संशोधन संख्या 1 वर्ष 2007	28 फरवरी, 2007
6	आईएस 5346 : 1994 सॉल्वेंट खाद्य रंग-निर्धितियों और मिश्रण-विशिष्टि (दूसरा पुनरीक्षण)	संशोधन संख्या 2 वर्ष 2007	30 अप्रैल, 2007
7	आईएस 1698 : 1994 इंडिगो कारमिन, खाद्य ग्रेड-विशिष्टि (दूसरा पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2008	29 अगस्त, 2008
8	आईएस 2558 : 1994 पॉसो 4 आर, खाद्य ग्रेड-विशिष्टि (दूसरा पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2009	29 अगस्त, 2008
9	आईएस 4467 : 1996 कैरामल-विशिष्टि (दूसरा पुनरीक्षण)	संशोधन संख्या 2 वर्ष 2008	29 अगस्त, 2008
10	आईएस 8268 : 2001 राईजोबियम जीवाणु कल्चर विशिष्टि (दूसरा पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2008	29 अगस्त, 2008
11	आईएस 14806 : 2000 एंजोस्मिरिलम जीवाणु कल्चर	संशोधन संख्या 1 वर्ष 2008	29 अगस्त, 2008
12	आईएस 14807 : 2000 थुलनशीलनीय फास्फेट जीवाणु कल्चर (पी.एस.बी.आई.) विशिष्टि	संशोधन संख्या 1 वर्ष 2008	29 अगस्त 2008
13	आईएस 13487 : 1992 सिचाई उपस्कर-टैक्सर्जक-विशिष्टि	संशोधन संख्या 5 वर्ष 2006	03 जुलाई 2008
14	आईएस 15757 : 2007 अनुसरित फार्मूला-अनुपूरक आहार-विशिष्टि	संशोधन संख्या 1 वर्ष 2007	24 सितंबर 2007
15	आईएस 15757 : 2007 अनुसरित फार्मूला-अनुपूरक आहार-विशिष्टि	संशोधन संख्या 2 वर्ष 2008	14 अगस्त 2008
16	आईएस 14433 : 2007 शिशु दुग्ध के वैकल्पिक आहार-विशिष्टि (पहला पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2007	30 सितंबर 2007

(1)	(2)	(3)	(4)
17	आईएस 14433 : 2007 शिशु दुग्ध के वैकल्पिक आधार-विशिष्ट (पहला पुनरीक्षण)	संशोधन संख्या 2 वर्ष 2008	14 अगस्त 2008
18	आईएस 14124 : 1993 मेलिक अम्ल, खाद्य ग्रेड-विशिष्ट	संशोधन संख्या 2 वर्ष 2008	30 जून 2008
19	आईएस 13704 : 1993 कास्टोरॉलिन (इस्टरगम) के गिलसरोल, खाद्य ग्रेड-विशिष्ट	संशोधन संख्या 2 वर्ष 2008	30 जून 2008
20	आईएस 4750 : 1996 सोरबिटॉल पाउडर, खाद्य ग्रेड-विशिष्ट (पहला पुनरीक्षण)	संशोधन संख्या 2 वर्ष 2008	30 जून 2008

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चेन्नई, मुम्बई, बण्डीगढ़ तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं : एफएडो/जी-128]

एस. सी. खोसला, वैज्ञानिक 'एफ' एवं प्रमुख (खाद्य एवं कृषि)

New Delhi, the 2nd September, 2008

S.O. 2555.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the amendment to the Indian Standard, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & Year of the Amendment	Date of which the amendment shall have effect
(1)	(2)	(3)	(4)
1	IS 10319 : 1982 Specification for Ethion Emulsifiable Concentrates	Amendment No. 3 Year 2007	31 March 2007
2	IS 1051 : 1980 Specification for Pyrethrum Extracts (second revision)	Amendment No. 4 Year 2006	31 March 2007
3	IS 10369 : 1982 Specification for Ethion Technical	Amendment No. 1 Year 2007	31 March 2007
4	IS 11785 : 1986 Specification for Captan (Wettable Powder) WP	Amendment No. 2 Year 2006	31 March 2007
5	IS 14251 : 1995 Captan, Technical—Specification	Amendment No. 1 Year 2007	28 February 2007
6	IS 5346 : 1994 Synthetic Food Colour—Preparations and Mixtures—Specification (second revision)	Amendment No. 1 Year 2007	30 April 2007
7	IS 1698 : 1994 Indigo Carmine, Food Grade—Specification (second revision)	Amendment No. 1 Year 2008	29 August 2008
8	IS 2558 : 1994 Ponceau 4R, Food Grade—Specification (second revision)	Amendment No. 1 Year 2008	29 August 2008
9	IS 4467 : 1996 Caramel—Specification (second revision)	Amendment No. 2 Year 2008	29 August 2008
10	IS 8268 : 2001 Rhizobium Inoculants—Specification (second revision)	Amendment No. 1 Year 2008	29 August 2008
11	IS 14806 : 2000 Azospirillum inoculants	Amendment No. 1 Year 2008	29 August 2008
12	IS 14807 : 2000 Phosphate Solubilising Bacterial Inoculant (PSBI)—Specification	Amendment No. 1 Year 2008	29 August 2008

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(1)	(2)	(3)	(4)
13	IS 13487 : 1992 Irrigation Equipment-Emitters—Specification	Amendment No. 5 Year 2006	03 July, 2008
14	IS 15757 : 2007 Follow-Up Formula-Complementary Foods—Specification	Amendment No. 1 Year 2007	24 Sep., 2007
15	IS 15757 : 2007 Follow-Up Formula-Complementary Foods—Specification	Amendment No. 2 Year 2008	14 August, 2008
16	IS 14433 : 2007 Infant Milk Substitutes—Specification (first revision)	Amendment No. 1 Year 2007	30 Sep., 2008
17	IS 14433 : 2007 Infant Milk Substitutes—Specification (first revision)	Amendment No. 2 Year 2008	14 August, 2008
18	IS 14124 : 1994 Malic Acid, Food Grade—Specification	Amendment No. 2 Year 2008	30 June, 2008
19	IS 13704 : 1993 Glycerol Esters of Wood Rosin (Ester Gums), Food Grade—Specification	Amendment No. 2 Year 2008	30 June, 2008
20	IS 4750 : 1996 Sorbitol Powder, Food Grade—Specification (first revision)	Amendment No. 2 Year 2008	30 June, 2008

Copy of these Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : FAD/G- 128.]

S. C. KHOSLA, Scientist 'F' and Head (Food & Agri.)

नई दिल्ली, 2 सितम्बर, 2008

का. आ. 2556.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन्हें भारतीय मानकों के विवरण नीचे अनुसूची में दिये गए हैं वे स्थापित हो गए हैं :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (को) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आईएस 4446 : (भाग 1) : 2008 क्लोरोफिल, खाद्य ग्रेड-विशिष्ट : भाग 1 पैगनीशियम संकुल (दूसरा पुनरीक्षण)	आई एस 4446 (भाग 1) : 1986	30 जून, 2008
2	आईएस 4446 : (भाग 2) : 2008 क्लोरोफिल, खाद्य ग्रेड-विशिष्ट : भाग 2 कापर संकुल (दूसरा पुनरीक्षण)	आई एस 4446 (भाग 2) : 1986	30 जून, 2008
3	आई एस 3827 : 2008 राईबोफ्लेविन, खाद्य ग्रेड-विशिष्ट : (पहला पुनरीक्षण)	आई एस 3827 : 1966	31 मई, 2008
4	आई एस 15795 : 2008/आई एस ओ 2971 : 1998 सिगरेंट और फिल्टर रॉड- संकेतिक व्यास ज्ञान करना-लेजर बीम द्वारा मापन उपकरणों के प्रयोग की पद्धति		31 मई, 2008
5	आई एस 3841 : 2008 β -कैरोटीन, खाद्य ग्रेड-विशिष्ट : (पहला पुनरीक्षण)	आई एस 3841 : 1966	30 जून, 2008
6	आई एस 9967 (भाग 1) : 2008/आई एस ओ 14673-1 : 2004 दुग्ध एवं दुग्ध उत्पाद-नाइटेड एवं नाईट्राइट का अंश निर्धारण भाग 1 कैंडमियम अपचयन तथा स्पेक्ट्रोमेट्री पद्धति (दूसरा पुनरीक्षण)	आई एस 9967 : 1997	30 अप्रैल, 2008
7	आई एस 9967 (भाग 1) : 2008/आई एस ओ	आई एस 9967 : 1997	30 अप्रैल, 2008

(1)	(2)	(3)	(4)
	14673-1 : 2004 दुग्ध एवं दुग्ध उत्पाद-नाइट्रेट एवं नाइट्रेट का अंश निर्धारण भाग 2 पृथक्कृत प्रवह विश्लेषण पद्धति (सामान्य विधि) (दूसरा पुनरीक्षण)		
8	आई एस 9967 (भाग 3) : 2008 /आई एस ओ 14673-3 : 2004 दुग्ध एवं दुग्ध उत्पाद-नाइट्रेट एवं नाइट्रेट का अंश निर्धारण भाग 3 कैडमियम अपक्षयन तथा इन-लाइन डायलिसिस के साथ द्रव अंतःक्षेपण विश्लेषण पद्धति (सामान्य विधि) (दूसरा पुनरीक्षण)	आई एस 9967 : 1967	31 जुलाई, 2008
9	आई एस 11623 : 2008 आई एस ओ 5537 : 2004 शुष्क दुग्ध-नमू की मात्रा का निर्धारण (संदर्भ विधि) (पहला पुनरीक्षण)	आई एस 11623 : 1986	31 जुलाई, 2008
10	आई एस 13488 : 2008 सिचाई उपस्कर-डत्सर्जकी पाइप पद्धतियों-विशिष्ट (पहला पुनरीक्षण)	आई एस 13488 : 1992	30 सितम्बर, 2008
11	आई एस 4753 : 2008 पोटेशियम नाइट्रेट, खाद्य ग्रेड-विशिष्ट (दूसरा पुनरीक्षण)	आई एस 4753 : 1996	30 अप्रैल, 2008
12	आई एस 6795 : 2007 एकैशिया (अरेबिक) गम, खाद्य ग्रेड-विशिष्ट (पहला पुनरीक्षण)	आई एस 6795 : 1972	30 नवम्बर, 2007
13	आई एस 7239 : 2007 गम चाटी, खाद्य ग्रेड-विशिष्ट (पहला पुनरीक्षण)	आई एस 7239 : 1974	30 नवम्बर, 2007
14	आई एस 9504 : 2007 एल (+)-टार्टरिक अम्ल, खाद्य ग्रेड-विशिष्ट (पहला पुनरीक्षण)	आई एस 9504 : 1980	30 नवम्बर, 2007
15	आई एस 9505 : 2007 मोनोसोडियम एल-ग्लूटामेट, खाद्य ग्रेड-विशिष्ट (पहला पुनरीक्षण)	आई एस 9505 : 1980	30 नवम्बर, 2007
16	आई एस/आई एस ओ 6492 : 1999 पशु आहार सामग्री-बसा की मात्रा का निर्धारण		31 अक्टूबर, 2007

इन भारतीय मानक (कों) की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर साह जफर रोड, नई दिल्ली-110002, क्षेत्रीय कार्यालय : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयंबटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में विक्री हेतु उपलब्ध हैं।

[सं. : एफएडी/जी-128]

एस. सी. खोसला, वैज्ञानिक 'एफ' एवं प्रमुख (खाद्य एवं कृषि)

New Delhi, the 2nd September, 2008

S.O. 2556. — In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. & Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1	IS 4446 (Part 1) : 2008 Chlorophyll, food grade : Part 1 Magnesium complex—Specification (second revision)	IS 4446 (Part 1) : 1986	30 June, 2008
2	IS 4446 (Part 2) : 2008 Chlorophyll, food grade : Part 2 Copper complex—Specification (second revision)	IS 4446 (Part 2) : 1986	30 June, 2008
3	IS 3827 : 2008 Riboflavin, food grade (first revision)	IS 3827 : 1966	31 May, 2008
4	IS 15795 : 2008/ISO 2971 : 1998 Cigarettes and filter rods—Determination of nominal diameter—Method using a laser beam measuring apparatus		31 May, 2008

(1)	(2)	(3)	(4)
5.	IS 3841 : 2008 β -Carotene, food grade— Specification (first revision)	IS 3841 : 1966	30 June, 2008
6.	IS 9967 (Part 1) : 2008/ISO 14673-1: 2004 Milk and milk products—Determination of nitrate and nitrite contents : Part 1 Method using cadmium reduction and spectrometry (second revision)	IS 9967 : 1997	30 April, 2008
7.	IS 9967 (Part 2) : 2008/ISO 14673-2: 2004 Milk and milk products—Determination of nitrate and nitrite contents : Part 2 Method using segmented flow analysis (Routine) method (second revision)	IS 9967 : 1997	30 April, 2008
8.	IS 9967 (Part 3) : 2008/ISO 14673-3: 2004 Milk and milk products—Determination of nitrate and nitrite contents : Part 3 Method using cadmium reduction and flow injection analysis with in-line dialysis (Routine) method (second revision)	IS 9967 : 1997	31 July, 2008
9.	IS 11623 : 2008/ISO 5537 : 2004 Dried milk— Determination of moisture content (Reference method) (first revision)	IS 11623 : 1986	31 July, 2008
10.	IS 13485 : 2008/Irrigation equipment— Emitting pipe system (first revision)	IS 13488 : 1992	30 September, 2008
11.	IS 4753 : 2008 Potassium nitrate, food grade —Specification (second revision)	IS 4753 : 1996	30 April, 2008
12.	IS 6795 : 2007 Acacia (Arabic) gum, food grade — Specification (first revision)	IS 6795 : 1972	30 November, 2007
13.	IS 7239 : 2007 Gum Ghatti, food grade— —Specification (first revision)	IS 7239 : 1974	30 November, 2007
14.	IS 9504 : 2007 L (+) Tartaric acid, food grade -- —Specification (first revision)	IS 9504 : 1980	30 November, 2007
15.	IS 9505 : 2007 Monosodium L-glutamate, food grade—Specification (first revision)	IS 9505 : 1980	30 November, 2007
16.	IS/ISO 6492 : 1999 Animal feeding stuffs— Determination of fat content		31 October, 2007

Copy of these Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : FAD/G--128]

S. C. KHOSLA, Scientist 'E' and Head (Food & Agri.)

नई दिल्ली, 3 सितम्बर, 2008

का. आ. 2557.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक (को) में संशोधन किया गया/किये गये हैं :-

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक (को) की संख्या वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
I.	आईएस 731 : 1971 की संशोधन संख्या	7 जुलाई, 2008	31 जुलाई, 2008

इस भारतीय संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़ चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. : ईटी 06/टी-2]

पी.के. मुखर्जी, वैज्ञ. 'एफ' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 3rd September, 2008

S.O. 2557.— In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & Year of the Amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 731 : 1971 Specification for Porcelain Insulators for overhead power Lines with a nominal Voltage Greater than 1000 V	7 July, 2008	31 July, 2008

Copy of this Amendment is available with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, and Thiruvananthapuram.

[No.: ET 06/T-02]

P. K. MUKHERJEE, Sc. 'F' & Head (Electro technical)

खाद्य और सार्वजनिक वितरण विभाग

नई दिल्ली, 5 सितंबर, 2008

का. आ. 2558.— केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग) के प्रशासनिक नियंत्रणाधीन भारतीय खाद्य निगम के निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक कर्मचारीकुन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :—

1. भारतीय खाद्य निगम,
जिला कार्यालय,
फरीदकोट, पंजाब
2. भारतीय खाद्य निगम,
जिला कार्यालय,
मोगा, पंजाब

[सं. : ई-11011/1/2008-हिन्दी]

नवीन प्रकाश, संयुक्त सचिव

(DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION)

New Delhi, the 5th September, 2008

S.O. 2558.— In pursuance of sub-rule (4) of rule 10 of the Official Language (use for official purpose of the Union) Rules, 1976, the Central Government hereby notifies the following Offices of Food Corporation of India under the administrative control of the Ministry of Consumer Affairs, Food & Public Distribution (Deptt. of Food & Public Distribution), where more than 80% of staff have acquired the working knowledge of Hindi :

1. Food Corporation of India,
Distt. Office,
Faridkot, Punjab
2. Food Corporation of India,
Distt. Office,
Moga, Punjab

[No. E-11011/1/2008-Hindi]

NAVEEN PRAKASH, Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 10 सितम्बर, 2008

का. आ. 2559.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मध्यप्रदेश राज्य में बीना संस्थापन से राजस्थान राज्य में कोटा तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कार्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50), की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है,

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिये उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्रीमति भगवती जैठवानी, सक्षम प्राधिकारी, बीना-कोटा पाइपलाइन परियोजना, भारत पेट्रोलियम कार्पोरेशन लिमिटेड, बी-105 इन्द्रा विहार तलवण्डी, कोटा - 324005 (राजस्थान) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : दीगोद		जिला : कोटा	राज्य : राजस्थान
क्र.सं.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हैक्टेयर में
1	2	3	4
1	भाण्डाहेड़ा	132	0.0450
		133	0.0180
		134	0.0750
		137	0.0200

Ministry of Petroleum and Natural Gas

New Delhi, the 10th September, 2008

S. O. 2559.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products Pipeline from Bina terminal in the State of Madhya Pradesh to Kota in the State of Rajasthan should be laid by Bharat Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Smt. Bhagwanti Jethwani, Competent Authority, Bina-kota Pipeline Project, Bharat Petroleum Corporation Limited, B-105 Indra Vihar Talwandi, Kota - 324005 (Rajasthan).

SCHEDULE

TEHSIL : DIGOD		DISTRICT : KOTA		STATE : RAJASTHAN	
S.No.	NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE		
1	2	3	4		
1	BHANDAHEDA	132	0.0450		
		133	0.0180		
		134	0.0750		
		137	0.0200		

[No. R-31015/9/2008-O.R.-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 10 सितम्बर, 2008

का. अ. 2560.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मध्यप्रदेश राज्य में बीना संस्थापन से राजस्थान राज्य में कोटा तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50), की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है,

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिये उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्रीमति भगवती जेटवानी, सक्षम प्राधिकारी, बीना-कोटा पाइपलाइन परियोजना, भारत पेट्रोलियम कार्पोरेशन लिमिटेड, बी-105 इन्द्रा विहार तलवण्डी, कोटा - 324005 (राजस्थान) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : लाड़पुरा		जिला : कोटा	राज्य : राजस्थान
क्र.सं.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हैक्टेयर में
1	2	3	4
1	कैथोड़ी	156	0.0342
		161	0.0360
		162	0.0050
		163	0.3200
		164	0.0360
		165	0.0720
		173/243	0.0072
		175	0.0144
2	ताथेड़	772	0.1300
		773	0.0486
		774	0.0432
		825	0.3100
		770	0.5800
		822	0.1800

New Delhi, the 10th September, 2008

S. O. 2560.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products Pipeline from Bina terminal in the State of Madhya Pradesh to Kota in the State of Rajasthan should be laid by Bharat Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its *intention* to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Smt. Bhagwanti Jethwani, Competent Authority, Bina-kota Pipeline Project, Bharat Petroleum Corporation Limited, B-105 Indra Vihar Talwandi, Kota - 324005 (Rajasthan).

SCHEDULE

TEHSIL : LADPURA		DISTRICT : KOTA		STATE : RAJASTHAN	
S.No.	NAME OF VILLAGE	SURVEY NO.		AREA IN HECTARE	
1	2	3		4	
1	KAITHODI	156		0.0342	
		161		0.0360	
		162		0.0050	
		163		0.3200	
		164		0.0360	
		165		0.0720	
		173/243		0.0072	
		175		0.0144	
		772		0.1300	
2	TATHED	773		0.0486	
		774		0.0432	
		825		0.3100	
		770		0.5800	
		822		0.1800	

[No. R-31015/9/2008-O.R.-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 10 सितम्बर, 2008

का.आ. 2561.—केन्द्रीय सरकार ने पेट्रोलियम और खानेज पाइपलाइन (भूमे में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 3407 तारीख 21 नवम्बर, 2007, जो भारत के राजपत्र तारीख 1 दिसम्बर, 2007 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्यप्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिए मुंबई-मांगल्या पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 3 मई, 2008 को उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी न, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा ।

अनुसूची

तहसील : पिड़ावा		जिला : झालावाड़	राज्य : राजस्थान
क्र०	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4

1. रघुनाथपुरा

583/194

0.0782

New Delhi, the 10th September, 2008

S. O. 2561.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 3407 dated the 21st November, 2007, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated the 1st December, 2007, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying an extension pipeline for transportation of petroleum products through Mumbai-Manglya Pipeline Extension Project from Manglya (Indore) terminal in the State of Madhya Pradesh to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi by Bharat Petroleum Corporation Limited ;

And whereas the copies of the said Gazette notification were made available to the public on the 3rd May, 2008;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

TEHSIL: PIDAWA		DISTRICT: JALAWAR		STATE: RAJASTHAN	
S.No.	NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE		
1	2	3	4		
1.	RAGHUNATHPURA	583/194	0.0792		

[No. R-31015/9/2008-O.R.-II]
A. GOSWAMI, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 18 अगस्त, 2008

का. आ. 2562.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ सं. 338/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2008, को प्राप्त हुआ था।

[सं. एल-12012/348/2000-आई.आर.(बी-1)]

बी. के. मनचन्दा, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 18th August, 2008

S.O. 2562.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 338/2001) of the Central Government Industrial Tribunal-cum-Labour Court Chennai, as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of State Bank of India, and their workmen, received by the Central Government on 18-8-2008.

[No. L-12012/348/2000-IR(B-1)]

B. K. MANCHANDA, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Wednesday, the 9th July, 2008

Present: K. Jayaraman,**Presiding Officer****Industrial Dispute No. 338/2001**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their Workman)

BETWEEN

Sri G. Anuburaja : I Party/Petitioner

Vs.

The Asstt. General Manager : II Party/Respondent
Region-IV

State Bank of India

Chennai-600 001

APPEARANCEFor the Petitioner : M/s Balan Haridas &
R. Kamatchi Sundaresan
AdvocatesFor the Management : K.S. Sundar and
R. Uma Maheswari
Advocates**AWARD**

The Central Government, Ministry of Labour vide its Order No. L-12012/348/2000 [(IR(B-1)] dated 107-12-2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the dismissal of Sri G. Anburaja by the Management of State Bank of India is legal and justified? If not, to what relief is the workman entitled?"

2. After the receipt of the reference, it was taken on file of this Tribunal as ID No. 338/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their respective Claim Statement and Counter Statement.

3. The averments of the petitioner in the Claim Statement are briefly as follows:

The petitioner joined the services of State Bank of India during the year 1983 and from 1991, the Petitioner was working in Tiruvannamalai branch of the State Bank of India. While so, he was placed under suspension by an order dated 12-10-1992, and was issued a charge memo dated 26-10-1992. The allegations in the charge memo are that the Petitioner had committed misconduct of misappropriation, forgery and making spurious entries in the bank's records resulting in financial loss to the bank. The Respondent conducted domestic enquiry. But the enquiry was conducted in a most unfair manner and the Petitioner was forced to admit the charges and the enquiry was not conducted in accordance with law and the Enquiry officer has held three charges framed against the Petitioner have been proved and one charge has not been proved and it was forwarded to the Petitioner and also the Disciplinary Authority. The Petitioner has given a detailed submission to the enquiry report. After issuing 2nd show cause notice, the Disciplinary Authority has differed with the findings of the Enquiry Officer and held that all the charges including the third charge are proved against the Petitioner and proposed punishment of dismissal from service without notice. Even the Petitioner in his representation to the Disciplinary Authority mentioned that he cannot possibly differ with the findings of the Enquiry Officer without putting him on notice. But the Disciplinary Authority without considering the valid objections raised by the Petitioner mechanically imposed the punishment of dismissal on 23-08-1993. Even the Petitioner's appeal to the Deputy General Manager of the Respondent Bank ended against him. Even though the Petitioner has written the admission in his own handwriting, it was obtained by coercion by the Respondent Bank authorities and the Petitioner was also forced to remit the alleged financial loss into the bank namely Rs. 1,10,600. Thus, the petitioner is only mere a

signatory to the proceedings which was conducted in a most unfair manner. The enquiry was conducted in a great haste and it was conducted in most hurried fashion. The Disciplinary Authority based on the findings which had been arrived at without any materials had imposed extreme punishment of dismissal vide order dated 23-08-1993. The order of the Disciplinary Authority is illegal and is not a speaking order. The domestic enquiry conducted by the Respondent is against the principles of natural justice, fair play and it is further submitted that for the alleged misconduct, the punishment of dismissal is grossly disproportionate. Hence, the Petitioner prays that an award may be passed in his favour.

4. In the Counter Statement, the Respondent has alleged that the Petitioner was working as a Clerk/Cashier in the Respondent Bank's branch at Tiruvannamalai. The allegation that the service of the petitioner was sincere, efficient and utmost to the satisfaction of his superiors is incorrect. He was placed under suspension by an order dated 12-10-92 for the acts of gross misconduct and the same was accepted by the Petitioner and proved and therefore, the Petitioner was dismissed from service. The proved charges are serious in nature. On various dates, the Petitioner has made spurious credit entries in S.B. Account No. 16564/107 in joint names of Smt. M. Maheswari and Sri G. Muthu with an intent to commit fraud on the bank. Further, he has made spurious entries in S.B. Account No. 204/3 in the name of his Mother Smt. G. Munirathinammal with an intent to commit fraud in the bank. Further, he has forged the initials of branch officials/ Head Clerk to authenticate the spurious entries made in ledger accounts as detailed in charges 1 and 2 and out of the spurious credits afforded to S.B. A/c No. 16564/107, the Petitioner has withdrawn a sum of Rs. 93,600 therefrom on various dates and misappropriated the same. Thus, the Petitioner has committed misappropriation, forgery and making spurious entries in bank's records resulting in financial loss which are prejudicial to the interest of the bank and gross misconduct under Para 521.4(j) of Sastry Award. The Petitioner has accepted all the charges framed against him. As regard to Charge No. 3, the Petitioner submitted that he had only put his signature for authentication and did not forge the other official's initials. In the enquiry, in the presence of the Petitioner all the documents were produced and marked as Ex. 1 to Ex. 35. By producing the above documents, it was clearly proved that the Petitioner as an employee of the Respondent Bank had misused his position and made spurious credits and withdrew a sum of Rs. 1,10,600 and hence, it is an admitted case of the Petitioner that he has committed misconduct. The enquiry was conducted by observing the principles of natural justice and as provided under various Bipartite Settlements. The Petitioner participated in the enquiry and availed full opportunity and failed to prove his bona fides and the punishment awarded by the authority was

appropriate and commensurate with the gravity of the misconducts. The Petitioner's appeal before the Appellate Authority was also disposed of according to law. Therefore, the Respondent prays that the claim of the Petitioner has to be rejected.

5. Points for determination are:

- (i) Whether the dismissal of the petitioner by the Respondent Management is legal and justified?
- (ii) To what relief the petitioner is entitled?

6. At the first instance on the representation of both parties, the issue with regard to the question as to whether an opportunity was provided by the Disciplinary Authority in case of the Disciplinary Authority having disagreed with certain evidences recorded by the Enquiry Officer was taken up by this Tribunal and after enquiry, this Tribunal has remanded the matter to the State Bank of India to proceed with the case against the petitioner in accordance with the law. As against that order, both the parties have preferred Writ Petitions before the Hon'ble High Court and the Hon'ble High Court after hearing both the WPs passed an order on 4-11-2006 allowing both the WPs and quashed the order passed by this Tribunal and also directed this Tribunal to restore the ID on its file and proceed to decide the issue of dismissal of the petitioner employee on merits and in accordance with the law. After remand, the matter was taken up by this Tribunal, both parties have argued on merits.

8. The learned counsel for the petitioner argued though the Enquiry Officer alleged that the petitioner has admitted the charges framed against him, the admission was only conditional and, therefore, the Enquiry Officer has to come to an independent conclusion with regard to charges framed against the petitioner. On the other hand, he has based his conclusion only on the admission and come to a conclusion that out of five charges, four charges have been proved which is not legal and therefore, there is no legal acceptable evidence to prove that the charges framed against the petitioner have been proved. As such, the findings given by the Enquiry Officer and the imposition of punishment by the Disciplinary Authority are perverse and reasons given by the Enquiry Officer and also by the Disciplinary Authority are not justifiable. Under such circumstances, the major punishment imposed on the petitioner is to be set aside. On the side of the petitioner, Ex.W1, copy of the written submission filed by him before the Enquiry Officer was marked and on the side of the Respondent Ex. M1 to Ex.M11 viz. the enquiry proceedings were marked. Both sides have not adduced any oral evidence and they argued the matter only with records. On behalf of the Respondent, it is argued it is settled position of law that admission is best piece of evidence against the person making the admission.

However, it is open to the persons making the admission to show why the admission is not to be acted upon. In the present case, though the petitioner alleged that his admission with regard to the charges is conditional, he has not established that under what circumstances he has admitted and for what reason the admission was made by him and should not be accepted. The learned counsel for the petitioner further relied on the ruling reported in 2004 8 SCC 88 DTC VS. SHYAM LAL for his proposition. I find much force in the argument of learned counsel for the respondent since the petitioner has admitted the charges framed against him viz. that he has dishonestly and fraudulently makes, signs as well as with the intention to causing it to be believed that such document or part of the document signed, sealed was executed and misappropriated the funds of the bank, therefore, it is clear that he had made false documents by initialing the entries with the intention to making it to believe that such document is authenticated by the Branch officials in order to withdraw amounts referred in the charge. In the enquiry, since he has admitted the charges, it is clearly proved that he is committed forgery and defrauded the bank to the tune of Rs. 1,10,600 and misappropriated the same. Therefore, I am not inclined to accept the argument of the learned counsel for the petitioner that the admission made by the petitioner is conditional and qualified one, and, therefore, the findings of the Enquiry Officer that he has admitted the charge is without any substance. As I have already pointed that since it is settled law that in case of the admission of the guilt it is always open to the Enquiry Officer and also for the Disciplinary Authority not to hold any detailed enquiry apart from the admission by the petitioner. Then, the learned counsel for the petitioner further contended that in one charge the Enquiry Officer has come to a conclusion that the charge has not been proved, only partially proved, on the other hand, the Disciplinary Authority has come to a conclusion that the said charge also proved beyond any doubt and even though, Hon'ble High Court has come to a conclusion that opportunity was given to the petitioner by personal hearing, in this case, the findings given by the Enquiry Officer and the imposition of punishment made by the Disciplinary Authority are based only on the admissions of the petitioner and, therefore, it cannot be taken into consideration and the imposition of punishment has to be set aside. It is his further argument that under Section-11A of the ID Act, this Tribunal has got ample power to re-appreciate the finding and come to a different conclusion but I am not inclined to accept this argument because since the petitioner has admitted the charges against him and since the amount involved in this case is very heavy and the amount which belongs to the customers viz. public, I am afraid the discretion given under Section-11A should be used in this case. Further, it is well settled in a banking business, devotion, diligence and integrity need to be preserved by every bank employee and if this is not

observed confidence of the depositors would be impaired and hence I find the imposition of punishment viz. dismissal in this case is legal and justified.

Point No. 2

The next point to be decided in this case is to what relief the petitioner is entitled?

9. In view of my foregoing finding that the imposition of punishment viz. dismissal passed against the petitioner is legal and justified, I find the petitioner is not entitled to any relief.

10. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 2nd July, 2008)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:

For the I Party/Petitioner	None
For the II Party/Mgmt.	None

Documents Marked :

Ex.No.	Date	Description
EX.W1	14-05-1993	Xerox copy of the written submissions filed by the Petitioner before the Enquiry Officer

For the II Party/Management:

Ex.No	Date	Description
EX.M1	12-10-1992	Xerox copy of the suspension order
EX.M2	26-10-1992	Xerox copy of the charge sheet
EX.M3	Nil	Xerox copy of the enquiry proceedings
EX.M4	24-05-1993	Xerox copy of the letter from disciplinary Authority to petitioner enclosing findings of Enquiry Officer
EX.M5	09-06-1993	Xerox copy of the letter from Petitioner to Disciplinary Authority
EX.M6	18-06-1993	Xerox copy of the letter from Disciplinary Authority to petitioner
EX.M7	16-07-1993	Xerox copy of the personal hearing proceedings before disciplinary proceedings
EX.M8	23-08-1993	Xerox copy of the order of dismissal issued to the Petitioner
EX.M9	13-10-1993	Xerox copy of the letter from petitioner to Appellate Authority
EX.M10	31-12-1993	Xerox copy of the letter from petitioner to Appellate Authority
EX.M11	17-01-1994	Xerox copy of the order of Appellate Authority

नई दिल्ली, 18 अगस्त, 2008

का. आ. 2563.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण पणजी के पंचाट (संदर्भ सं. 50/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2008 को प्राप्त हुआ था।

[सं. एल-12012/358/1998-आई.आर. (बी-1)]

बी. के. मनचन्दा, अनुभाग अधिकारी

New Delhi, the 18th August, 2008

S.O. 2563.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/1999) of the Industrial Tribunal-cum-Labour Court I, Panaji, as shown in the Annexure, in the Industrial dispute between the management of State Bank of India, and their workmen, received by the Central Government on 18-8-2008.

[No. L-12012/358/1998-IR(B-1)]

B. K. MANCHANDA, Section Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I AT PANAJI

BEFORE ANUJA PRABHUDESSAI, PRESIDING OFFICER

Ref. No. IT/50/99

Shri Suryakant Naik
Sanvordem, Mirabai,
Palnem, Sanvordem, Goa.

Party I/Employer

V/s

The Zonal Manager, Region-I
State Bank of India,
State Bank Bhavan,
M. G. Road, P. B. No. 12,
Panaji, Goa, 403001

Party II/ Workman

Workman/Party I. D. B. Bhise

Employer/Party II is represented by Adv. M. S. Bhandodkar

AWARD

(Delivered on this 17th day of April, 2008)

In exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947. The Central Government has referred the following dispute to this Tribunal for adjudication :—

“(1) Whether the action of the Zonal Manager, State Bank of India, Region-I, Panaji, Goa in terminating

the services of Shri Suryakant Naik, Ex-Messenger in their Margao Branch w.e.f. 10-4-1997, is legal and justified? If not, to what relief the workman is entitled for?”

2. On receipt of the reference IT/50/1999 was registered. Notices were issued to both parties. The Party I has filed his claim statement at Exb. 5. He has stated that he had worked for State Bank of India, Sanvordem, Branch from September 1985 to June 1986. In the year 1991, the Zonal Office, State Bank of India, Panaji issued letter No. RM:1:AWD:1844 dated 28th November 1991 calling for interview for considering absorption in Banks Service. He participated in the interview and vide letter dated 2-6-1994 he informed that his name was recommended or temporary appointment as Messenger at its branch, as and when necessary. The Party I has stated that on 23rd June, 1994 he joined as Messenger and worked at Madgaon Branch till 1st July, 1995 and thereafter from 8th July, 1995 Till 2nd April 1997. The Party I has stated that he had worked for 410 days and that he had rendered required period of services for absorption.

The Party I has stated that the Party II has terminated his services without issuing any order and that the said termination is arbitrary and illegal and that he is entitled for reinstatement with full back wages and continuity in service.

4. The Party II filed its written statement at Ext.6. The Party II claimed that the reference is not maintainable and that the Tribunal cannot entertain any dispute for regularization. The Party II has further stated that it used to employ temporary workers and daily wage earners in subordinate staff cadre due to exigencies of work. The Party II, with an intention of abolishing the practice of such temporary engagement, entered into various settlements with the Federation, wherein it was agreed that certain specified categories of temporary employees would be considered for permanent appointment in the bank services against the vacancies likely to arise during 1987 and 1991. The said period was further extended from time to time and in the conciliation proceedings held on 9th June, 1995 before Labour Commissioner (Central) at Hyderabad, it was agreed that the panels of the temporary employees daily wage/casual employees would be kept alive up to 31st March, 1997.

5. The Party II has stated that the Party I was engaged as casual workmen for 42 days from September 1985 to June, 1986 at Sanvordem Branch. Pursuant to the circular and an advertisement issued by the Party II, the Party I applied for empanelment and was according empanelled. The Party II has stated that though the Party I was empanelled, he was not engaged during the years 1991, 1992, and 1993 and that he was employed for the 1st time in the year 1994 between 21-6-1994 to 30-6-1995 for which period he was paid at the minimum scale applicable to the

subordinate staff. The Party II has stated that Margao Branch has 14 permanent messengers and there are no vacancies.

6. The Party II has stated that after 8-9-1995 the services of the Party I were utilized as and when required on daily wages. The Party II has stated that Party I does not have any statutory right for permanent appointment. The Party II has stated that as per the settlement dated 26-3-1997 four temporary Messengers were made permanent from 1992 wait list as per their seniority. Since the Party I was 20th in the 1992 list, he could not be absorbed and his services were discontinued from 1-4-1997. The Party II has denied that its act of not absorbing the Party I is arbitrary.

7. On the basis of pleadings following issues were framed: -

1. Whether the Party I proves that he was employed with the Party II as a Messenger till the date of termination of his service?

2. Whether the Party I proves that the Party II terminated his services illegally and without justification from 1-4-1997?

3. Whether the Party II proves that the reference is not maintainable?

4. Whether the Party I is entitled to any relief?

5. What Award?

8. The matter was posted for evidence. The Party I filed his affidavit in evidence at Exb.13, however, even before the cross-examination of the Party I could commence, the parties filed an application, dated 26-8-05 at Exb.14 stating that they have settled the dispute amicably as per the terms incorporated in the application at Exb. 14. The Parties have requested that the Award should be passed in terms of the settlement at Exb. 14. I have perused the terms at Exb. 14 and in my opinion the same are in the interest of the workman. Hence the terms are taken on record and the consent award is passed in terms of the settlement dated 26-8-05 at Exb.14.

ORDER

It is agreed between the parties that the management of State Bank of India, Margao Branch, Goa hereinafter in short referred to as "Management" shall pay a sum of Rs.15,000/- (Rupees fifteen thousand only) to the workman Shri Suryakant Naik by way of an Accounts Payee Cheque No.792611 dated 30-3-2005 drawn on State Bank of India at Margao branch in full and final settlement of all his (i.e. workman's) claims which shall include any earned wages, bonus, gratuity, overtime, leave encashment, notice pay etc. if any, arising out of his employment/discontinuance/termination and shall also include the claims of the workman arising out of the reference No. IT/50/99.

2. It is agreed by Mr. Suryakant Naik (the workman/ Party I) that he shall accept the said amount as mentioned in Clause No.1 herein above in full and final settlement of all his claims which shall include any earned wages, bonus, gratuity, overtime, leave encashment, notice pay etc. if any arising out of his employment/discontinuance/termination and shall also include all his claims arising out of the reference No.IT/50/1999 and he shall acknowledge the said amount by way of Receipt duly signed by him. The Workman/Party I further confirms that nothing further benefits are due and payable to him by the Management either due to his employment in the Bank or under the reference No.IT/50/1999. The workman/Party I has further agreed that this settlement shall satisfy all his claims including his claims under reference No. IT/50/1999 and including any claim of reinstatement and/or re-employment.

3. It is further agreed by the Workman/Party I that he shall have no claim of whatsoever nature against the Employer/Party II including any claim of reinstatement and/or re-employment.

Inform the Government accordingly.

Dated : 17-4-2008

Panaji

A. PRABHUDESSAI, Presiding Officer

नई दिल्ली, 19 अगस्त, 2008

कर. आ. 2564.- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.बी.एम.बी.के. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुसूच में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण नं. 1, चण्डीगढ़ के पंचाट (संदर्भ सं. 19/1990) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-08-2008 को प्राप्त हुआ था।

[सं. एल-42012/110/1989-डी-11 (बी)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 19th August, 2008

S.O. 2564.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/1990) of Central Government, Industrial Tribunal-cum-Labour Court-I, Chandigarh, as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of BBMB, and their workman, which was received by the Central Government on 19-8-2008.

[No. L-42012/110/1989-D-I(13)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH

Case ID No. 19/90

Chief Secretary, Nangal Bhakra Labour Union, Nangal
Township, Distt. Ropar (Pb.)-140124

.....Applicant

Versus

Chief Engineer, Bhakra Dam, Nangal Township, Distt.
Ropar (Pb.)-140124

.....Respondent

APPEARANCES

For the workman : Shri R. K. Singh

For the management : Shri Bhagat Singh

AWARD

Passed on 1-08-2008

Government of India vide Notification No. L-42012/110/89-D-II (B) dated 19-1-1990 referred the following industrial dispute on account of failure of conciliation proceedings for judicial adjudication of this Tribunal :

“Whether Sh. Mool Raj S/o Sh. Chint Ram, Fitter is eligible for promotion to the post of Tempolite Marker considering the order of CGIT, Chandigarh dated 13-11-85 and the seniority position in the post in which he is appointed.”

It is very simple reference for judicial adjudication that whether on the basis the order of CGIT, Chandigarh dated 13-11-85; the workman is eligible for the promotion, and whether he is eligible for the promotion as per his seniority on the post to which he was appointed ? On serious scrutiny of the records, it is clear that the workman was appointed on 4-9-73 on the post of Fitter (Marking). Some dispute on his appointment arose and the matter was referred by the Central Government to the Central Government Industrial Tribunal. Vide its order dated 13-11-85, the CGIT, Chandigarh hold that the workman was appointed to the post of Fitter (Marking) but was given the work to be discharged for the Tempolite Marker.

These two posts Fitter (Marking) and the Tempolite Marker are different under different pay scales. Accordingly, on the basis of the nature of work carried on by the workman, this Tribunal vide order dated 13-11-85, directed the management to fix him at the relevant slab in the scale of Tempolite marker w.e.f. 1-4-1979, since when he was made to function as such and to submit the statement

of accounts of his dues to this Court on or before 15-12-85. The management complied with the order and the difference of pay was paid to the workman. Thereafter the management by specific order directed the workman to work on the post to which he was initially appointed and the office was also directed not to take any work of other responsibility for which the workman was appointed. I have again gone through the entire order. In the order dated 13-11-85 this Tribunal has specifically mentioned that as the workman was made to function on another post to which he was appointed, he be fixed at the relevant slab in the scale of Tempolite Marker to which he was meant to work. Thus, the order dated 13-11-85 was passed by the Tribunal on the basis of the function carried on by the workman and not on the basis of his appointment. There was no question mark on the appointment of the workman to the post of Fitter and as the management has took the work of the Fitter after order dated 13-11-85, the workman was thereafter, not entitled for the higher slab. He is entitled for the pay structure on the basis of his appointment letter. His promotion to the higher scale is governed under the rules and regulations governing the parties and not by the order of this Tribunal which was passed on other special facts. Accordingly, the workman cannot make the order of the Tribunal dated 13-11-85 as the tool and guard for this promotion because this Tribunal has never passed the order that he was entitled for the post of Tempolite Marker but the Tribunal has held that he is entitled for the slab of Tempolite Marker as he was made to function as such. Thereafter, he ceases to function as such, so on the basis of this order, the workman cannot claim for promotion to the Post of Tempolite Marker. On the basis of the documents filed by both of the parties, it is evident that the workman has been promoted to the post of Tempolite Marker in the year 1998 as per his seniority and it is not disputed. Accordingly, this reference is answered. Let the Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 19 अगस्त, 2008

का. आ. 2565.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.बी. एम.बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण नं. 1, चण्डीगढ़ के पंचाट (संदर्भ सं. 251/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-08-2008 को प्राप्त हुआ था।

[सं. एल-23012/25/2001-आई आर (सीएम-11)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 19th August, 2008

S.O. 2565.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 251/2004)

of the Central Government, Industrial Tribunal-cum-Labour Court No. I, Chandigarh, as shown in the Annexure, in the Industrial Dispute between the management of BBMB, and their workmen, received by the Central Government on 19-08-2008.

[No. L-23012/25/2001-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No. I.D. 251 of 2004

Sh. Dhani Ram, General Secretary, BCB/BBMB Mazdoor Union (PW), S-2/773, Sundernagar, District Mandi (HP)

.....Applicant

Versus

The Superintending Engineer, BBMB, Dehar Power Circle, Dehar Power House, District Mandi (HP)

.....Respondent

APPEARANCES

For the workman : None

For the management : None

AWARD

Passed on 7-08-2008

Central Government vide Notification No. 1-23012/25/2001-IR (CM-II) dated 28th of June, 2004 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management BBMB, Dehar Power House, Slapper, District Mandi (HP) in fixing the pay of Shri Ved Prakash son of Shri Chaman Lal less than his junior Shri Tulsī Ram as on 1-1-1996 is legal and justified ? If not to what relief the workman is entitled ?"

2. No one is present, on behalf of workman. Learned representative of the management is also not present. Since morning this reference has been called number of times. At 10.45 A.M., it was ordered to be placed before this Tribunal once again at 2 PM. It is 2.30 now and on repeated calls no one is present, in spite of having of full knowledge of the proceedings of this reference. The reference is as old as referred to this Tribunal in the year 2004. On repeated calls since morning no one is present. Accordingly, the reference is dismissed in default for non-prosecution. Central Government be informed accordingly. File to be consigned. Chandigarh,

7-8-08

G. K. SHARMA, Presiding Officer

नई दिल्ली, 19 अगस्त, 2008

का. अ. 2566.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यो.बी.एम.बी. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण नं. 1, चण्डीगढ़ के पंचाद (संदर्भ सं. 147/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-08-2008 को प्राप्त हुआ था।

[सं. एल-23012/24/1997-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 19th August, 2008

S.O. 2566.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 147/1998) of the Central Government, Industrial Tribunal-cum-Labour Court-I, Chandigarh, as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BBMB, and their workman, which was received by the Central Government on 19-08-2008.

[No. L-23012/24/1997-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No. I.D. 147/98

Sh. Madan Lal S/o Sh. Dilip Chand, V.P.O. Bahdala (H.P.) Teh. and Distt. Una, Bhavnagar.

.....Applicant

Versus

The Chief Engineer, Bhakra Dam, Nangal Township, Distt. Repar (Pb.)

.....Respondent

APPEARANCES

For the workman : Sh. R. K. Singh

For the management : Sh. Bhagat Singh

AWARD

Passed on 1-8-2008

Central Government vide notification No. 1-23012/24/97-IR (CM-II) dated 22-7-98 referred the following industrial dispute for judicial adjudication :

“Whether the action of the management BBMB, represented through Chief Engineer, Bhakra Dam and Secretary, BBMB in terminating the services of Sh. Madan Lal, Driver w.e.f. 22-11-96 is justified? If not, to what relief is the workman entitled?”

This reference was the result of failure of conciliation proceedings in the office of Conciliation Officer, Chandigarh. The controversy, as is clear from the pleadings of the parties is whether a workman who is on probation can be terminated for his misconduct, without conducting departmental enquiry? The workman Shri Madan Lal was terminated on 22-11-96 vide order No. 5336/296/D/B/M/D dated 22-11-96 on the allegation of driving the Jeep No. V-42 (PB-12/3002) on 30-6-96 under intoxication of wine and driving another jeep No. V-49 (PB-16/0147) on 30-7-96 under the intoxication of wine. On previous occasion, dated 30-6-96 the jeep met with an accident whereas, on subsequent occasion dated 30-7-96 the jeep was found abandoned and the driver was found unconscious.

Before passing the above order of termination, a show cause notice was also given to the workman vide letter No. 4497-95/296-E/BM/D dated 16-9-90. The show cause notice was duly received by the workman.

The workman disputed his termination on the ground that he was appointed against the substantial vacancy on permanent basis and cannot be terminated without holding an enquiry. On the other hand, the management justified his termination on the ground that rule 7 of Notification bearing No. 17612/R & R/25/86/R-4 dated 24-6-94 regarding BBMB Class III and Class IV Employees (Recruitment and Conditions Service) Regulations, 1994 provides that a person appointed to any post in the service shall remain on probation for a period of 2 years, if recruited by direct appointment and one year if appointed on promotion. As per the appointment letter, the workman was appointed against a substantial vacancy on regular basis but his service conditions are governed by BBMB Class III and Class IV Employees (Recruitment and Conditions of Service) Regulations, 1994. As he was directly appointed, so as per the provisions of Rule 7 of the above regulation, his services will be on probation for 2 years.

Now the question for determination before this Tribunal is whether the workman who is on probation can be terminated for his alleged misconduct of driving the vehicle under intoxication, without conducting a departmental enquiry. The management of the respondent has alleged that as per sub clause (b) of Clause III to Rule 7 of the said regulations, the prescribed authority is empowered to dispense with the service of any workman, if appointed by direct recruitment, if his work and conduct has not been found satisfactory.

In my opinion there is a difference in two terms namely dispense with the services of the workman if the conduct

of the workman has not been found satisfactory during the period of probation and his termination from the service on ground of alleged misconduct. For former, there is no requirement of the departmental enquiry but for alleged misconduct and particularly if the alleged misconduct is of such a nature which puts a stigma on the workman, the workman cannot be terminated without conducting a departmental enquiry, and if it is done it will be violation of principle of natural justice which is genesis of all the laws, rules and regulations.

Hon'ble the Apex Court in *Indra Pal Gupta Vs. Model Inter College, Thora* 1984 Volume 65 FJR 431 has held as under :—

It is well settled that if the order of termination of the service of an employee, including a probationer, carries a stigma, it has to fall to the ground unless it is preceded by an enquiry as contemplated in law. Therefore, where a person was appointed as a probationer and his services were terminated simpliciter under the conditions of service by a letter to the effect that in view of the resolution of the managing committee of the institution he was informed that his services were terminated, but a reading of the letter after termination of service and the resolution of the managing committee which formed part of that letter clearly showed that it was merely a camouflage for an order imposing the penalty of termination of service on the ground of misconduct clearly indicating that they bear a mark of disgrace or infamy and that the employee was visited with evil consequences, the lower Court erred in holding that the order of termination was an innocuous one and did not carry any stigma, and the employee should be declared to be continuing in service.

Likewise in *Dipti Prakash Banerjee Vs. S. B. National Centre 2000* (Volume 96 Supreme Court 607), it has been held by the Apex Court that where the facts for the order of termination were the foundation of order it cannot be said to be a case of mere motive. It will be considered to be in the nature of stigma and under such circumstances, the employee/workman cannot be terminated from the services without holding a departmental enquiry.

Hon'ble the Apex Court in above mentioned judgment has specifically dealt with the circumstances in which an order of discharge of a probationer can be said to be punitive depends upon whether the allegations therein which are the cause of the termination of services are motive or the foundation. In this context, there is no difference between the cases where the services of a temporary employee are terminated and a probationer is discharged. Hon'ble the Apex Court in the above case further held that :

If findings were arrived at in an inquiry as to misconduct behind the back of the officer or without a regular departmental enquiry, the simple order of termination is to be treated as "founded" on the allegations and will be bad. But if inquiry was not held and no findings were arrived at and the employer was not inclined to conduct an enquiry but, at the same time, he did not want to continue in service the employee, against whom there were complaints, it would only be a case of "motive" and the order would not be bad. Similar is the position if the employer did not want to enquire into the truth of the allegations because of delay in regular departmental proceedings or doubt about securing adequate evidence. In such a circumstance, the allegation would be motive and not the foundation and a simple order of termination would be valid.

The effect which an order of termination of services may have on the person's future prospects of employment is a matter of relevant consideration. If a simple order of termination was passed that would enable the officer to make good in other walks of life without a stigma. If the order contained a stigma, the termination would be bad for the individual concerned must suffer a substantial loss of reputation which may affect his future prospects.

On careful scrutiny of the records and the documents filed by the parties, it is evident that the workman was appointed as a Driver on 25-11-94 against the substantial vacancy on regular basis under the pay scale of Rs. 1020—2130. His services were terminated during the probationary period of 2 years vide office order No. 5336/296-E/BM/D dated 22-11-96 on basis of two charges of misconduct mentioned under Para 2(I) and 2(II). Charges on the basis of which his services were terminated were that he drove the vehicle under the intoxication of wine. Thus, the charges that he drove the vehicle under the intoxication of wine is the basis of his termination from the service and it cannot be termed as mere motive but a stigma that may have serious implication on his future prospects of employment. Accordingly, the decision of the prescribed authority of the management for terminating (discharging) of services of the workman on the basis of the order No. 5336/296-E/BMT dated 12-11-96 has no legs to stand as it has been passed without a departmental enquiry and against the principle of natural justice. This order was passed in violation of the principle of natural as no right of hearing was afforded to the workman while passing this order. Moreover, the show cause notice which is said to be given vide order No. 4497-98/296-E-BM/D dated 16-9-90 is a face wash because in the second last para of the letter, it is determined act of the prescribed authority that the work and conduct of the workman has

not been found satisfactory during the probation period of 2 years and as such his services are liable to be dispensed with. The bases of this confirm view is again the same that he was found driving the vehicle under intoxication of wine on two occasions. After this firm opinion, a show cause notice had no relevancy because the prescribed authority had already made up the mind to dispense with the services of the workman even prior to given him the notice. It is also a violation of principle of natural justice.

Thus, on the basis of the above observation, I am of the view that the action of the management of the BMBB in terminating the services of Shri Madan Lal, Driver w.e.f. 22-11-96 is not justified. It is illegal as no departmental enquiry was conducted and the order of termination was accordingly passed in violation of the principle of natural justice. The workman Madan Lal is no more. His death certificate is on record. As per the death certificate, the workman dies on 7-12-01. His legal representatives are on record. Under such circumstances, this Tribunal has to again discuss the matter as to for what relief is the workman entitled, which is the second part of the reference. It is also stated here that the probation period of any workman is not over merely because he has served for the entire probation period. As per the Rule 7 (3) of the above regulations, a specific order is required to be passed by the prescribed authority on expiry of the probation period. In such types of cases, where the workman is not available to serve or the management has no substantial vacancy to provide the job to the workman, reasonable compensation is the good answer. In such types of cases, Labour Court or Industrial Tribunal is empowered to grant a reasonable compensation. As the workman is no more, his legal representatives are on record, in my opinion, a compensation of Rs. 25,000 will be sufficient to meet the ends of justice. Accordingly, the management of the respondent is directed to provide to the legal representatives of the deceased workman a compensation of Rs. 25,000 within a month. Let the Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 19 अगस्त, 2008

का. आ. 2567, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की भाग 17 के अनुसूचन में केन्द्रीय सरकार स्टेट बैंक ऑफ़ पटियाला के प्रबंधक के संवर्द्ध नियोजकों और उनके कर्मचारों के बीच, अनुसूचन में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, चण्डीगढ़ नं. 1 के पंचाट (संदर्भ सं. 73/1992) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-08-2008 को प्राप्त हुआ था।

[सं. एल-12012/33/1992-आई आर (बी-11)]

बी. के. मनचन्दा, अनुभाग अधिकारी

New Delhi, the 19th August, 2008

S.O. 2567.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/1992) of Central Government, Industrial Tribunal-cum-Labour Court-I, Chandigarh, as shown in the Annexure, in the Industrial Dispute between the management of State Bank of Patiala, and their workmen, received by the Central Government on 19-08-2008.

[No. L-12012/33/1992-IR (B-III)]

B. K. MANCHANDA, Section Officer

ANNEXURE

**BEFORE SHRI GYANENDRAKUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No. I.D. 73/92

General Secretary, State Bank of Patiala, Sub Staff Union,
Head Office, The Mall, Patiala-147001,

.....Applicant

Versus

General Manager (Operation) State Bank of Patiala, Sub
Staff Union, Head Office, The Mall, Patiala-147001.

.....Respondent

APPEARANCES

For the workman : Sh. Raj Kaushik

For the management : Sh. N. K. Zakhmi

AWARD

Passed on 5-08-2008

Central Government vide notification No. 12012/33/92-IR (B-III) dated 30th June, 1992 referred the following industrial dispute for adjudication on account of failure of conciliation proceedings in the office of Conciliation Officer.

“Whether the action of the management of State Bank of Patiala in dismissing the services of Shri Hamek Gill, Peon-cum-Frash w.e.f. 8-6-91 is justified? If not, to what relief the concerned workman is entitled?”

I have gone through the entire file before this Tribunal and the enquiry file of departmental enquiry proceedings against Shri Hamek Gill. On 5-10-90, Shri Hamek Gill was chargesheeted as follows :—

That on 25-9-90 at about 3 : 15 p.m., Shri Hamek Gill came to the Main Hall of the Head of his building, where the GMO's Sectt. is seated, in a drunken state raised slogans, hurled abuses, derogatory remarks

against General Manager using the following words and thus, displayed disorderly and indecent behaviour at the banks premises and thereafter, slipped away from the bank :

“FARH LO JINE MERA LUN PHARNA
KERAH GM HAI BAHIN DA LORA”

Earlier in the day, Shri Gill reported for duty at Patiala Mall Road, Punjab at 9:45 a.m. and after making his attendance in the attendance register for full day, slipped away from the branch without the permission of the Manager (C&I).

On the basis of the charge, Shri Hamek Gill was asked to reply the charge sheet. Shri Gill replied the same which was found unsatisfactory and in order to ascertain the factual position, an enquiry officer was appointed to conduct the enquiry. The enquiry officer after affording the full opportunity of being heard conducted the enquiry and submitted his report, wherein, the charges leveled against the workman were fully proved. A show cause notice was given to the workman before taking disciplinary action against the workman and after receiving the reply to show cause notice, the disciplinary authority afforded the opportunity for personal hearing. Thereafter, the disciplinary authority imposed penalty of dismissal from service vide order dated 8-06-91. The workman Shri Gill preferred an appeal against the order of disciplinary authority dated 8-6-91, which was dismissed by the appellate authority after affording the opportunity of being heard.

The workman in his statement of claim has disputed his presence at the Head Office on the day in question. The workman has stated that on 25-9-90, the date in question, he had gone to Rajinder Hospital, Patiala to get his sister-in-law discharged and the inquiry was initiated against him with some malafide motives. There was no complaint lodged against him and he was not provided the copy of the complaint. When asked for answering the charge sheet leveled against him. Enquiry officer has not afforded him the appropriate opportunity of being heard and the inquiry, accordingly, was conducted against the principle of natural justice. All the witnesses who were examined by the Enquiry Officer were prejudiced being a member of another union. On the other hand, on behalf of the management, it is stated in written statement that proper opportunity of being heard was given.

Enquiry was conducted in a proper, fair and reasonable manner and there was no violation of any of the rules of principle of natural justice.

Both of the parties were afforded the opportunity to adduce the evidence. Shri Hamek Gill filed his affidavit whereas, on behalf of the management, Sh. R. S. Sethi filed the affidavit.

Shri Harnek Gill was cross-examined by learned counsel for the management on 15-2-99, whereas, Shri R. S. Sethi was cross-examined in the Tribunal on oath in Open Court. This reference was fixed for arguments from 7-6-99 and arguments could be heard on 9-7-08 after 9 years and that too under protest. On 23-5-08, notice was served upon the parties to turn up for arguments for 10-6-08. On 10-6-08, the Court also tried to get the case disposed of by adopting the mechanism of negotiation and conciliation in Lok Adalat but it could not have been possible to dispose of this case in Lok Adalat and 2-7-08 was fixed for arguments. On 2-7-08, learned counsel for the workman moved an adjournment application which was allowed as the last opportunity and parties were directed to argue the case on 8-7-08. On 8-7-08, again it was requested on behalf of the workman to adjourn the case and considering the age of the case 9-7-08 was fixed. On 9-7-08, no one turned up for the workman and the arguments of learned counsel for management were heard and the file was reserved for Award. Learned counsel for the management has argued that the Enquiry Officer conducted the enquiry in a very fair and reasonable manner, the charge leveled against the workman was well proved by the statement of witnesses and the document placed before the Enquiry Officer. Proper opportunity of being heard was given to the workman and there is no requirement under law to interfere with the finding of Enquiry Officer and the punishment given by the disciplinary authority.

It has also been argued by learned counsel for the management that the words uttered by the workman are so derogatory that it is not possible for the bank to continue the services of the workman and misconduct committed by the workman is of such a nature which warranted his dismissal and no other punishment.

I have gone through the enquiry report, enquiry proceeding, evidence given by the parties before the Tribunal and other materials on record. The first objection raised by the workman is that no charge can be framed against him without a complaint. The copy of the complaint was not provided to him and he could not answer the charge sheet properly and accordingly prejudice was caused to him. On perusal of the record, it is evident that on 25-9-90 a surprise check of GMO's Sect. was conducted at about 3:00 p.m. During the course of surprise check, which was conducted by Assistant General Manager (Vigilance), it came to the notice that Shri Harnek Gill, Peon posted at Mall Road, Patiala Branch showed indecent behaviour and allegedly heard abuses in the main hall. The report of surprise check by Assistant General Manager (Vigilance) was given to GMO and as desired by the GMO the matter was entrusted to K. J. Wadhan, Officer of this department for investigation. Shri. K. J. Wadhan conducted a preliminary investigation and submitted his report on 27-9-90, holding that Shri Harnek Gill visited the Head Office at about 3:00 p.m. and is guilty of showing disorderly

behaviour. In the preliminary enquiry, as more as 17 witnesses were recorded and one of the witness Shri Suneel Arora categorically gave the exact abuses hurled by Shri Harnek Gill. Accordingly, on the basis of a surprise check on 25-9-90 and the report of the parliamentary investigation by the Vigilance Department of the Head Office by Sh. K. J. Wadhan, Officer MMS-II Department of Vigilance, the workman Shri Gill was charge sheeted and on his unsatisfactory answer a departmental enquiry was conducted.

Thus, I have no reason to agree on the contention of the workman that he could not have been charge sheeted without a complaint. He was charge sheeted on the basis of a surprise check conducted by the Vigilance Department and on the basis of preliminary investigation conducted by Sh. K. J. Wadhan. Thus, it cannot be said that the initiation of inquiry has no legs to stand as initiated on the basis of surprise check by the Vigilance department and the report of preliminary investigation conducted by the Vigilance Department itself.

First of all, it will be proper to discuss the genuineness of the enquiry, whether the enquiry was conducted in a fair and proper manner by the officer competent to conduct the enquiry? And whether the Enquiry Officer while conducting the enquiry complied with the rules of principle of natural justice?

I have gone through the enquiry report and of the enquiry proceeding which is in 116 pages and was concluded on 16 dates from 25-10-90 to 26-3-91. The procedure which was adopted by the Enquiry Officer is very well mentioned in first page of the enquiry report which in my opinion is a fair and reasonable procedure. The Enquiry Officer was duly appointed by the prescribed authority and it was intimated to the workman as well. It is true that workman in so many letters written to the Enquiry Officer, which he has filed in the proceedings of this Tribunal, has questioned the manner of conducting the Enquiry but after going through the objections raised by the workman and the enquiry proceedings, I am of the view that on every date of hearing either the workman in person or his duly appointed representative Shri Ashwani Sharma was present. As more as 7 witnesses were examined by the Enquiry Officer and all of the witnesses were cross-examined either by the workman or by his duly appointed representative Shri Ashwani Sharma. The workman also adduced 4 defense witnesses which were recorded by the Enquiry Officer and cross-examined by the management. After perusing and analyzing the evidence oral and documentary, the Enquiry Officer gave his finding that the workman on 25-9-90, reported for duty at Patiala Mall Road Punjab at 9:45 a.m. and after marking his attendance in the attendance register for the full day slipped away from the branch without the permission of the Manager (CI). Further at about 3.15 p.m. he came to the Main Hall of Head Office

Building where the GMO's Sectt. is seated in drunken state and raised slogans, 'hurled abuses, derogatory remarks against the General Manager by using the following words: :

**"FARH LO JINE MERA LUN PHARNA KERAH
GM HAI BAHIN DA LORA"**

It was also reported in the enquiry report that in this manner, workman displayed disorderly and indecent behaviour at the bank's premises. On the basis of the enquiry report a show cause notice along with the copy of the enquiry report was given to the workman on 17-6-91. Shri Gill replied to show cause notice vide letter dated 17-6-91 and after considering the reply of the workman the disciplinary authority on 8-6-91 passed the order of dismissal without notice in terms of Clause 196 (A) of the bipartite settlement, 1966. Thus, on the basis of the above observation, I am of the view that the Enquiry Officer was duly appointed as per the rules of the bank by the competent authority. The Enquiry Officer was empowered to conduct the enquiry and he conducted the same in a proper, reasonable and fair manner. On perusing the materials on record, there seems no violation of any of the rule of principle of natural justice and accordingly, I have nothing to say on the procedure and manner in conducting the enquiry.

The question for determination before me now is whether the Enquiry Officer has rightly held the charge proved. Before discussing this issue, it is proper to mention that the proceedings before the Tribunal are altogether of different nature than that of the Civil Court. Likewise, in the departmental proceedings conducted by a man of department, it would be expected that all the rules of the Evidence Act and the procedure as is applicable in the Civil Courts will not be applied. In the departmental proceedings, if the enquiry is conducted as per the manner mentioned in the concerned rules of the department, it will be sufficient. It is true that there is minor contradictions in the evidence recorded by Shri K. J. Wadhan in preliminary enquiry and in the statement recorded by the Enquiry Officer. During preliminary investigation only one witness Shri Suneel Arora gave categorically the exact abuses hurled by Shri Gill whereas, before the Enquiry Officer, Gurinder Pal Singh PW2, Shri Suneel Arora PW4 are said to hear and reported the exact words hurled by Shri Gill. It is a development in the statement of PW2 that he could not reproduce the same words uttered by Shri Gill at the time of incidence to Sh. K. G. Wadhan. It is a minor discrepancy which has no value in the departmental proceedings because as stated earlier, the departmental proceedings are altogether on different footing than that of the proceedings before the Civil Court and on the basis of this discrepancy no adverse inference should be drawn by the Tribunal.

The workman also produced as more as 4 defense witnesses. The workman wanted to prove as is clear from the statement of all the 4 defense witnesses, that on the day and time in question he was present somewhere else in Rajinder Hospital, Patiala. The witnesses who were adduced by him have casually stated that Shri Gill was present in the Hospital but no documentary proof before the Enquiry Officer was placed by any of the witnesses. Moreover, in the cross-examination of these witnesses they referred such facts regarding the addresses, relationship between the parties that it is not possible for this Tribunal to believe the story raised by the workman. Accordingly, the Enquiry Officer while discussing the evidence has rightly discarded the evidence of all the 4 defense witnesses. All the witnesses adduced by the management of the bank and recorded by the Enquiry Officer has the firm view that Shri Gill while appearing to the Head Office was in a drunken state. Few witnesses have said that he seems to be in the drunken position. All the witnesses have seen Shri Gill from a remote distance and it was not possible for them to assess whether Shri Gill was in a drunken position. No medical examination regarding his drunken position was conducted. So the Enquiry Officer was not justified in holding that Shri Gill appeared in the Head Office Building in a state of drunkenness. But he has rightly held that Shri Gill on 25-9-90 at about 3.15 p.m., appeared the Main Hall of Head Office Building raised slogans hurled abuses, derogatory remarks by using the following words :

**"FARH LO JINE MERA LUN PHARNA KERAH
GM HAI BAHIN DA LORA"**

As stated earlier that proceedings before the Tribunal are altogether of different nature. It was held by the 3 Judges Bench of Hon'ble Apex Court in State of Haryana and Others Vs. Rattan Singh 1997 II LL-50 that "in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. Departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Fairplay is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal cannot be held good. The simple point is, was there some evidence or was there no evidence-not in the sense of the technical rules governing regular Court proceedings but in a fair common sense way as men of understanding and worldly wisdom will accept."

Thus, considering and applying the principle laid down by Hon'ble the Apex Court, I am of the view that the Industrial Tribunal or the Labour Court must viewed the departmental enquiry and other material on record on the basis of the principle laid down earlier that where reasonable and fair procedure was adopted by the enquiry officer, and there was no violation of any of the rules of the principle of natural justice, the Tribunal and the Labour Court has very limited scope to interfere. Accordingly, there is no scope before this Tribunal to interfere in the finding of the enquiry officer and the disciplinary authority awarding the punishment of dismissal of Shri Harnek Gill because the act as proved to be committed by Shri Harnek Gill cannot be tolerated in any of the office. If it is tolerated, then the sanctity of the office will be at stake and work culture diminished. Accordingly, the reference is answered in positive that the action of the management of State Bank of Patiala in dismissing the services of Shri Harnek Gill Peon/Frasher w.e.f. 8-6-91 is justified and the workman is not entitled for any relief. Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 19 अगस्त, 2008

का. आ. 2568.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, चण्डीगढ़ नं. 1 के पंचाट (संदर्भ सं. 41/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-08-2008 को प्राप्त हुआ था।

[सं. एल-12012/27/1992-आई आर (बी-3)]

बी. के. मनचन्दा, अनुभाग अधिकारी

New Delhi, the 19th August, 2008

S.O. 2568.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the Award (Ref. No. 41/1993) of Central Government, Industrial Tribunal-cum-Labour Court-I, Chandigarh, as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India, and their workmen, received by the Central Government on 19-08-2008.

[No. L-12012/27/1992-IR (B-3)]

B. K. MANCHANDA, Section Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH

Case No. I.D. 41/93

General Secretary, State Bank of India, Staff Congress,
1303, Sector 23-B, Chandigarh-160023

.....Applicant

Versus

The Regional Manager, State Bank of India, Region-I,
Sector-17, Chandigarh

.....Respondent

APPEARANCES

For the workman : Shri Raj Kaushik
For the management : Shri Ashok Khullar

AWARD

Passed on 8-8-2008

Central Government vide notification No.-12012/27/92-IR (B-3) dated 12-3-93 referred the following industrial dispute for judicial adjudication on account of failure of conciliation proceedings.

"Whether the action of the management of State Bank of India in terminating the services of Shri M. K. Sharma w.e.f. 27-3-90 is legal and justified? If not, to what relief the workman is entitled to and from what date?"

I have gone through the pleadings of the parties. It is evident from the pleading that the workman Shri M. K. Sharma joined the services of State Bank of India on 28-4-81 and was confirmed on 21-10-81. The workman was transferred from Chandigarh to Gill Road Branch, Ludhiana, on 28-11-81. Some dispute between the workers of the bank and Mr. Arvinder Singh partner of M/s. Ajay Foundry Works, Ludhiana took place on 10-8-88 in which both of the parties agitated as per the remedies available to them. During the enquiry proceedings of said incident the workman was transferred to Ferozpur Branch of Ludhiana. The workman protested the transfer and filed a civil suit in the Court of Senior sub Judge Ludhiana and the Court of Senior Sub-Judge Ludhiana was kind enough to pass an ex-parte injunction order on 20-3-88 in favour of the workman and workman reported at Gill Road Branch, Ludhiana where he was allowed to rejoin but was not allowed to do any work. Thereafter the court of sub-Judge Ludhiana vacated the ex-parte injunction order on 21-9-88. Consequently, the Branch Manager illegally stop the entry of the workman without giving any relieving letter and without assigning any reason for the same on the advice of Union Bank of India Staff Congress. The workman withdraws the civil suit and raised an industrial dispute against the action of the management. The Central government refused to refer the reference to the Industrial Tribunal excepting the action of the management on the bank that the workman was transferred by the bank from one branch to another. The union to which the workman was a member served a strike notice on the management and accordingly UACI immediately started conciliation proceedings. During the conciliation proceedings the management took the stand that the

workman stand transferred to Ludhiana Branch and he is at liberty to join their. During conciliation proceedings, the management of the bank fails to produce any transfer/reliving order. Nor the management was ready to relieve. On the advice of the Union, the workman reported at Ladhwal Branch on number of times to join the duties but the branch manager refused to receive the joining letter on the plea he will consult the regional office regarding it and after consulting regional office the workman will be allowed to join the Branch. During the conciliation proceedings it came to the notice of the workman that the management of the bank illegally passed the orders of termination in advance without any justification and without serving the letters on the workman on the ground that the workman has voluntarily abandoned his services.

The management of respondent bank disputed these facts in written statement and stated that the workman Shri Sharma was transferred on 16th of August, 1988 to Lodhwal Branch Ludhiana, and in spite of joining at the Lodhwal Branch; he filed a civil suit against the transfer order. The Civil Court at the initial stage granted the stay but the stay was vacated. As the workman had been relieved already, he was not permitted to rejoin after stay order. On number of occasions he was instructed by the Bank to join at the Ladhwal Branch, but he failed. The final notice in this regard was sent to him on 30-3-90 at his recorded address and the same was redirected to 1261 Shimlapuri, Ludhiana. However, this letter was received back with the remarks that no such person stays at 1261, Shimlapuri, Ludhiana. As even after the final notice, the workman has not joined at the Lodhwal Branch his services were automatically terminated being abandoned. As per the provisions of the bipartite settlement an enquiry in such cases was required.

Both of the parties were afforded the opportunity for adducing evidence. Shri M. K. Sharma, the workman, filed the affidavit. On the other hand, Shri Bharat Bhushan Vashist and Mrs. Sukhwinder Kaur filed the affidavits on behalf of the management of the respondent bank and both of the witnesses were cross-examined by the learned counsels of the opponent respectively.

The main question before this tribunal for judicial adjudication is whether non-joining by the workman at the Ladhwal Branch under the circumstances of the case shall be deemed to be abandoned his services? Apart from the other documents filed by both of the parties, there are three important notices which are said to be sent by the management of the respondent bank to the workman. All these notices are admitted to both of the parties.

Notice dated 5-9-89 given by the management of respondent bank to Shri Mahesh Kumar Sharma regarding unauthorized absence from duty. Through this notice the workman was advised to report for duty within 30 days from the date of this notice, otherwise it will be deemed

that he has voluntarily retired from service on the expiry of notice in which he will also be liable to pay to the bank 14 days/1 month pay and allowances in lieu of the notice.

Another notice which is on record is dated 8-3-90. Vide this letter (notice) the workman was informed that he is absent from duty unauthorizedly since 23-8-88 from Lodhwal Branch, Ludhiana. Through this notice the workman was also directed vide memorandum no. 12/131 dated 5-9-89 calling upon him to report for duty within 30 days. It is stated by the management that as he has failed to report for duty by 26-3-1990, it is deemed that he has voluntarily abandoned his services on 27-3-1990.

The third letter/memorandum/notice is dated 27-3-1990 which is said to be the final notice in the written statement filed by the management of the respondent bank. The last three line of para no. 1 of this notice reads as under :—

“Thus, we have not been left with any alternative but to send you the final notice for abandonment of services by you”.

Admittedly, it is the final notice as said by the management of the respondent bank and rightly alleged in its written statement.

On the other hand, the workman has also filed several letters and one of the letter is dated 16-1-91 requesting the Manager of Lodhwal Branch to permit him to join the service. There are two letters written by the workman addressed to the Branch Manager Lodhwal on 16-1-91 regarding the same contents, i.e. permitting him to join at the Branch. In response to these letters the manager of Lodhwal Branch has informed the workman that he is referring this issue to the headquarter whether permission for joining the services be granted? The workman has also filed a letter dated 19-9-89 which is answer of the letter dated 5-9-89 written by the Branch Manager Lodhwal Branch advising him to join the services/ No doubt there are so many other documents on record which will be dealt with separately at the relevant time. On the basis of the above mentioned letters and other materials on record, this Tribunal has to determine whether the workman has abandoned his services?

As per the dictionary, “The New International, Websters Comprehensive Dictionary of the English Language, Encyclopedia Edition, the meaning of abandonment is as follows :—

“Abandonment means to give up wholly, to desert, to for sake or as an effort or attempt to surrender or gave over permanently”.

Thus, this meaning shows that abandonment means gave up a right permanently with intention not to do the work again.

It means for abandonment of services the intention of the workman for not joining the duty should be clearly established. If it is not established the abandonment cannot be held to be proved. The same view has been expressed by Hon'ble the Apex Court in Punjab and Sind Bank and others Vs. Sakatkar Singh 2001-1 Supreme Court cases 214 as relied upon the law established in Syndicate Bank Vs. General Secretary, Syndicate Bank Staff Association 2000-05 SCC 65. In the above case law, Hon'ble the Apex Court has held that a reading of clause xvi of IV bipartite settlement will make it clear that in the event an employee absents himself from duty for 90 or more consecutive days beyond the period of leave originally sanctioned or subsequently extended the management may, at any time thereafter, give a notice to the employee at the last known address calling upon him to report for duty within 30 days of notice stating, inter alia, the grounds for the management coming to the conclusion that the employee has no intention of joining duty and furnishing necessary evidence wherever relevant and unless the employee reports to duty within 30 days of the notice or give an explanation for his absence satisfying the management that he has not taken up another employment or avocation and that he has no intention for joining the duty the employee will be taken to have voluntarily retired from the bank service on the expiry of the time fixed in the said notice. In the event of the employee giving a satisfactory reply, he will be permitted to report for duty thereafter within 30 days from the expiry of the aforesaid notice without the prejudice to the bank's right to take any action under the law or rules of services. Under this rule the employee is giving an opportunity to rejoin duty within a stipulated time or explain his position to the satisfaction of the management that he has no intention for not joining duty, and presumption will be drawn that the employee does not require the job any more and will stand retired from service.

On the basis of the notices, evidence, facts and circumstances of the case and the law laid down by the Hon'ble the Apex Court in above mentioned case, I am unable to accept the contention of the management that it shall be deemed that workman has retired from the service from 27-3-1990 on the following grounds :—

- (1) The management of the respondent bank is unable to establish the date of final notice. As per letter dated 5-9-89 the workman was directed to resume his work and join the duty within 30 days from the date of the notice. Whereas, from letter dated 8-3-90 the workman was informed that the workman has voluntarily abandoned the service from 27-3-90. There is another letter on record dated 27-3-90 which the management claims to be the final notice given to the workman to resume the services. In between these letters there has been a regular communication between the workman and the management of the

bank. Notice dated 27-3-90, which is said to be the final notice, shows that the management has not acted upon the previous two notices dated 5-9-89 and 8-3-90.

- (2) The reply of the letter 5-9-89 was given by the workman on 19-9-89 showing the intention to serve the bank. The dispute between the management of the bank and the workman was not on intention to render the services to the bank but it was on the fact where to join and in what branch the workman has to serve? From all the transactions, which are on record, it is evident that the management has failed to prove that the workman has no intention to serve to the bank and he is serving somewhere else for his survival. It is admitted to the parties that not only the correspondence between them but the proceedings of conciliation have also been pending before the conciliation officer regarding the dispute of the transfer. There are certain other communication made by the workman to the management of the bank that he wanted to join at Ludhwal branch but he was not permitted on the pretext that he can be permitted after obtaining the permission from the head office and what order has been passed by the head office neither was communicated to the workman nor has been filed on the record.
- (3) In its pleading, the management of the bank has admitted that he was retired from the services of the bank on 27-3-90, whereas, the management has claiming that the final notice was served upon him on 27-3-90. It is true that M.W. 1 in his opening sentence of cross-examination has stated that letter dated 27-3-90 was issued to the workman for informing him about the confusion in dates. But I am unable to accept this contention of the management because the management has not only mentioned in his pleadings that final notice was given on 27-3-90 but a notice given by the management of the bank to the workman dated 27-3-90 is on record. In this notice it is very well mentioned that it is the final notice issued upon the workman asking him to join the services within 30 days. If vide letter dated 27-3-90 a last opportunity is given to join the service from the workman can be presumed to come from the services of the bank on 27-3-90. Moreover, on perusal of the record and the evidence of the parties, the intention of the workman not to serve the bank is not established. Moreover, from the correspondence, it is clear that the workman has been willing to serve the bank throughout.

May be the workman has committed any other misconduct. He was transferred by the management of the bank to which he did not comply with. He was regularly visiting and contacting the officials of the management in the branch from which he was transferred. It may be the case of disobedience of the order of the management but not the abandonment of the services and for disobedience of the order of the management an enquiry is mandatory. Admittedly, no enquiry was conducted.

Thus, I am of the view that on the basis of the above observations, it cannot be presumed that the workman has abandoned his services. He might have committed another misconduct for which an enquiry was mandatory and no enquiry was conducted. Thus, the reference is answered in negative that the action of the management of State Bank of India in terminating the services of Shri M. K. Sharma w.e.f. 27-3-90 is not legal and justified. The workman is entitled to serve the bank on the basis of the transfer order made by the management. As the workman has not worked for a pretty long time, on the principle of "no work no pay" he will not be entitled for any back wages. It is prima facie established that the workman was transferred from one branch to another in Ludhiana to which he has not complied with. Accordingly, this order for permitting the workman to join will be effective without any prejudices to the right of the management to take any action according to law and rules of the Bank. The management of the bank is directed to permit the workman to join on the branch he was transferred within a month. Let the Central Government be informed. File is to be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 19 अगस्त, 2008

का. आ. 2569.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूची में केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुसूची में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, चण्डीगढ़ नं. 1 के पंचाट (संदर्भ सं. 183/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-08-2008 को प्राप्त हुआ था।

[सं. एल-12012/105/2000-आई आर (बी-1)]

बी. के. मनचन्दा, अनुभाग अधिकारी

New Delhi, the 19th August, 2008

S.O. 2569.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 183/2000) of Central Government, Industrial Tribunal-cum-Labour Court-I, Chandigarh, as shown in the Annexure,

in the Industrial Dispute between the management of State Bank of Patiala, and their workmen, received by the Central Government on 19-08-2008.

[No. L-12012/105/2000-IR (B-1)]

B. K. MANCHANDA, Section Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH

Case I.D. No. 183/2000

Smt. Amarjit Kaur W/o Sh. Ashok Kumar, R/o VPO Ramgarh,
Distt. Panchkula (Haryana)

.....Applicant

Versus

(1) The Branch Manager State Bank of Patiala, Ram Garh,
Distt. Panchkula (Haryana).

(2) The Asstt. General Manager-II (Haryana), State Bank
of Patiala, SCO Nos. 103-107, Sector 8-C, Chandigarh

.....Respondent

APPEARANCES

For the workman : None

For the management : Sh. N. K. Zakhami

AWARD

Passed on 5-8-2008

Central Government vide Notification No. L-12012/105/2000-IR (B-1) dated 25-5-2000 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of State Bank of Patiala in terminating the services of Smt. Amarjit Kaur W/o Shri Ashok Kumar w.e.f. 23-7-1999 is just and legal? If not to what relief the workman is entitled to?"

2. No one is present on behalf of workman. Learned representative of the management Shri N. K. Zakhami is present. Since morning this reference has been called number of times. At 10.45 a.m., it was ordered to be placed before this Tribunal once again at 2 p.m.. It is 2.30 now and on repeated calls no one is present, in spite of having of full knowledge of the proceedings of this reference. The reference is as old as referred to this Tribunal in the year 2000. On repeated calls since morning no one is present. Accordingly, the reference is dismissed in default for non-prosecution. Central Government be informed accordingly. File to be consigned.

Chandigarh.

5-8-2008

G. K. SHARMA, Presiding Officer

नई दिल्ली, 19 अगस्त, 2008

का. आ. 2570, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में केंद्रीय सरकार स्टेट बैंक ऑफ पटियाला प्रबंधन के संबंध निर्यातकों और उनके कर्मचारियों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार, औद्योगिक अधिकरण, चण्डीगढ़ नं. 1 के पंचाद (1992 सं. 11 1992) को प्रकाशित करती है, जो केंद्रीय सरकार का 19-08-2008 को पारित हुआ था।

[सं. एल-12012/09/1992-आई.एल.सी. 17]

बी. के. मनचन्दा, अनुभाग अधिकारी

New Delhi, the 19th August, 2008

S.O. 2570.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the Award (Ref. No. 317/1992) of Central Government, Industrial Tribunal-cum-Labour Court-I, Chandigarh, as shown in the Annexure, in the Industrial Dispute between the management of State Bank of Patiala, and their workmen, received by the Central Government on 19-08-2008.

[No 1-12012/09/1992-IL (C-1)]

B. K. MANCHANDA, Section Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case I.D. No. 11/92

Shri Gurnam Singh C/o Shri Jek Chand Sharma, 24, Sarda Nagar, Civil mes, Ludhiana.

.....Applicant

Versus

General Manager, State Bank of Patiala, Head Office, The Mall, Patiala-147001

.....Respondent

APPEARANCES

For the workman : Shri Jek Chand Sharma

For the management : Sh. N. K. Zakhrai

AWARD

Passed on 7-8-2008

Government of India vide Recall Order No 1 of 2008 9/92-IR (B3) dated 36-2-1992, referred the first wing

industrial dispute for judicial adjudication on account of failure of conciliation proceedings.

"Whether the action of the management of State Bank of Patiala in dismissing the workman Shri Gurnam Singh, Peon-cum-Flash vide their letter dated 28-1-91 was justified / if not, what relief the workman is entitled to?"

I have gone through the pleading of the parties. On serious scrutiny of the pleadings, it is evident that the workman was charged on two counts on 15-3-90 as follows:

1. That on 24-11-89, the workman fraudulently withdrew a sum of Rs. 10,000 from the Saving Bank Account No. 205359 maintained by one Shri Jaswant Singh S/o Sh. Gurdev Singh, resident of Village Harpalpur by altering the amount of the withdrawal form signed and partly filled in by the account holder from Rs. 1000 to Rs. 10,000 and by writing in words a sum of Rs. 10,000 therein. After receiving the payment, the workman handed over a sum of Rs. 1,000 to the said Sh. Jaswant Singh and pocketed the balance amount of Rs. 9,000.
2. On 8-12-89, the workman fraudulently withdrew a sum of Rs. 1,700 from the aforementioned S.B. Account by altering the figure of Rs. 700 to Rs. 1,700 on the withdrawal form partly filled in and signed by Shri Jaswant Singh and by writing in words a sum of Rs. 1,700 therein, the workman after receiving a sum of Rs. 1,700 from the teller handed over Rs. 300 to Shri Jaswant Singh and pocketed the balance of Rs. 1,000.

The workman replied to the charge sheet and considering the reply unsatisfactory, the management ordered for an enquiry and enquiry officer after conducting the enquiry gave its report on both of the charges as well proved. The disciplinary authority on the basis of the enquiry report and after giving a show cause notice and the opportunity for personal hearing inflicted punishment of dismissal from service of the workman on 28-1-92, which gave an opportunity to the workman to raise this industrial dispute.

The workman in his statement of claims has stated that he was not afforded the proper opportunity of being heard, opportunity for cross examination was not given, enquiry officer was not appointed as per the provisions of law and the disciplinary authority without applying its mind inflicted the punishment of dismissal. On the other hand, the management in its written statement has alleged that enquiry was conducted in a fair and reasonable procedure opportunity of being heard at every stage was given to the

workman and there was no violation of any of the rules of principle of natural justice. Both of the parties adduced their evidence as per the provisions of Industrial Disputes Act. The enquiry report and proceedings are on record. I have gone through the entire enquiry file.

First of all, I have to discuss whether the enquiry was conducted in a fair, proper and reasonable manner and whether the enquiry officer while conducting the enquiry complied with the principles of natural justice.

On careful perusal of enquiry file, it is evident that vide letter No. 2DP/Per. Dated 7-6-90 Zonal Manager, Personnel (disciplinary authority) appointed Shri B.S. Luthra as enquiry officer to enquire the matter on the charges leveled against the workman. This letter also contains the procedure to be followed by the enquiry officer while conducting the enquiry and the copy of this letter along with the copy of the charge sheet was served on the workman on 7-6-90 itself. The enquiry officer afforded full opportunity to the workman at every state as is evident from the proceedings of enquiry held on different dates. The workman as MW-1 has himself admitted that he participated on each and every hearing of the enquiry, management has produced all the witnesses in his presence and he has cross-examined all of them. No doubt, in his cross-examination, he has also stated that he made complaints against the enquiry officer to the management but of no use. But this fact of making complaint has not find place in the affidavit of the workman or in the claim statement. It has only been mentioned that the enquiry officer was not appointed by the competent authority as per the provisions of Shastri Award and Desai Award read with B. P. Settlement. Thus, this is the casual statement of the workman as in its statement he has further stated that he cannot produce the copy of any of the complaints. Thus, in absence of any such complaints, I am of the view that enquiry officer was duly and properly appointed by the disciplinary authority under the provisions of the relevant rules. The enquiry officer afforded the opportunity, as admitted by the workman, on every date hearing of enquiry. The workman cross-examined all the witnesses of the management. Thus, there seems to be no violation of principle of natural justice by the enquiry officer while conducting the enquiry and the procedure adopted by the enquiry officer in my opinion is a fair and reasonable procedure which causes no prejudice to the workman.

Now it is open for this Tribunal about the approach of the enquiry officer while proving both of the charges leveled against the workman. Both of the charges are relating to a man named as Shri Jaswant Singh who has a Saving Bank Account No. 20534/59 in the concerned branch. Shri Jaswant Singh was examined by the enquiry officer who has categorically stated how the fraud was committed with him. On two occasions he took the

assistance of the workman. On first occasion, the workman withdrew an amount of Rs. 10,000 by making alterations in withdrawal form, gave Rs. 1000 to Shri Jaswant Singh and kept Rs. 9000 for himself. Likewise, on the another occasion he withdrew 1700 in the same manner, kept Rs. 1000 for himself and give Rs. 700 only to Shri Jaswant Singh and thus, misappropriated Rs. 10,000 for his personal use. Shri Jaswant Singh was cross-examined by the workman and the opening sentence of the cross-examination is regarding the taking of loan by the workman from Shri Jaswant Singh to which Shri Jaswant Singh denied. Thus, from the cross-examination and the chief examination of Shri Jaswant Singh, it is evident that the workman admitted that he is having Rs. 10,000 of Shri Jaswant Singh but it was loan to which Shri Jaswant Singh denied. Shri Jaswant Singh in his evidence has categorically narrated how he came to know about the fraud committed with him. The witnesses of the bank, the concerned Branch Manager and the other employees having also given the evidence regarding the transaction on two occasions and most of the witnesses have specifically stated that the workman Shri Gurnam Singh was the key figure in receiving the cash and partly handed over to Shri Jaswant Singh and keep the balance with him. Thus, the enquiry officer after considering the entire material on record has rightly held both of the charges to be proved against the workman. Shri Jaswant Singh has examined thoroughly and the evidence of Jaswant Singh was well corroborated by other witnesses of the bank. Accordingly, the enquiry officer has rightly held both of the charges well proved against the work.

The enquiry officer was duly appointed. He adopted a fair and reasonable procedure for conducting enquiry. The enquiry officer also complied with the principles of natural justice and after proper scrutiny of the evidence adduced by the management before the enquiry officer, has rightly given its finding of both of the charges being well proved.

The workman was working in a financial institution and certainly he committed fraud with the customer of the bank. By such activity not only the trust of the customer in the bank is lost but the confidence of the management in the workman is also lost which is fatal for the functioning of a financial institution like the respondent. For the fraudulent act of the workman the management has rightly dismissed him from the service and accordingly, this reference is answered positively that the action of the management of State Bank of Patiala in dismissing the workman Shri Gurnam Singh Peon-cum-Fras vide their letter dated 28-1-91 was justified and the workman is not entitled to any relief. Let Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2571.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी.एल. के प्रबंधन के संबंध निबंधकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ सं. 13/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-08-2008 को प्राप्त हुआ था।

[सं. एल-22012/56/2001-आई.आर. (सी एम-1)]

अजय कुमार गौड़, डेस्क ऑफिसरी

New Delhi, the 20th August, 2008

S.O. 2571.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial dispute between the management of Mohan Colliery of WCL, and their workmen, received by the Central Government on 20-08-2008.

[No. L-22012/56/2001-IR(CM-1)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/13/02

Presiding Officer : Shri C. M. Singh

The General Secretary,
R. K. K. M. S. (INTUC),
PO: Chandametta,
Chhindwada (MP)

... Workman Union

Versus

General Manager,
WCL, Pench Area,
PO Parasia,
Distt. Chhindwara (MP)

... Management

AWARD

Passed on this 4th day of August, 2008

I. The Government of India, Ministry of Labour vide its Notification No. L-22012/56/2001-(IR(CM-1)) dated 24-12-2001 has referred the following dispute for adjudication by this tribunal :-

"Whether the action of the management of Kukumunda O/c Mine of WCL, Pench Area, P.O. Parasia, Distt. Chhindwara (M.P.) in not correcting the date of birth of Shri Sk. Sabbir S/o Sk. Usman as

23-8-1952 as per school documents is legal and justified? If not, to what relief he is entitled to?"

2. Vide order dated 5-8-02 passed on the ordersheet of this reference proceeding, the referenced proceeded *ex parte* against the workman Sk. Sabbir Union. No statement of claim has been filed on behalf of the workman Union.

3. The case of the management in brief is as follows. That on 2-5-87, the workman Shri Sabbir was informed his service particulars including his date of birth shown in the office record and asked for objection, if any. The workman did not file any objection. In Form-03 Register and in other office records, the date of birth of the workman has been recorded as 1-10-1941. The workman has raised the present dispute in the year 2000 whereas he retired from services in the year 2001. He has raised the present dispute on the flag end of his service. The dispute was earlier raised by the workman through RKKMS Union and the matter was settled on 2-7-1991. The School Certificate is not genuine and is not a legal document. The workman stopped for challenging the date of birth entered in the various statutory registers.

4. As the case proceeded *ex parte* against the workman Union there is no evidence on record on behalf of the workman Union.

5. The management in order to prove their case filed affidavit of their witness Shri Rajesh Ku. Sinha, then working as Sr. Personnel Officer in Western Coalfields Limited, Pench Area, Distt. Chhindwara.

6. I have heard Shri A. K. Shashi, Advocate for management. I have very carefully gone through the evidence on record. The case of the management is fully established and proved from the uncontroverted and unchallenged affidavit of their witness Shri Rajesh Ku. Sinha.

7. Therefore the reference is decided in favour of the management and against the workman Union without any order as to costs holding that the action of the management of Kukumunda O/c Mine of WCL, Pench Area, P.O. Parasia, Distt. Chhindwara (M.P.) in not correcting the date of birth of Shri Sk. Sabbir S/o Sk. Usman as 23-8-1952 as per school documents is legal and justified and consequently the workman is not entitled to any relief.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2572.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू. सी.एल. के प्रबंधन के संबंध निबंधकों और उनके कर्मचारों के

बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ सं. 98/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-08-2008 प्राप्त हुआ था।

[सं. एल-22012/107/1997-आई.आर.(सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 20th August, 2008

S.O. 2572.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the Award (Ref. No. 98/1998) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial dispute between the employers in relation to the management of WCL, and their workmen, which was received by the Central Government on 20-08-2008.

[No. L-22012/107/1997-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/98/98

Presiding Officer : Shri C. M. Singh

General Secretary,

K. K. M. P. (HMS),

PO: Junnardeo,

Distt. Chhindwara (MP)

.. Workman/Union

Versus

The Manager,

Ghorawari Colliery of WCL,

PO Ghorawari, Kanhan Area,

Distt. Chhindwara (MP)

...Management

AWARD

Passed on this 6th day of August, 2008

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/107/97/IR(CM-II) dated 9-6-98 has referred the following dispute for adjudication by this tribunal:—

"Whether the action of the Manager, Ghorawari Colliery, PO: Ghorawari, Tah. Junnardeo, Distt. Chhindwara (MP) in dismissing Sh. Mansoo S/o Adgoo, driller-cum-dresser of Ghorawari colliery of WCL, Kanhan Area from services w.e.f. 2-8-96 is legal and justified? If not, to what relief the worker is entitled?"

2. The case of workman Shri Mansoo/Union is as follows. That the workman had 20 years neat and clean

services. During his service period of underground mine driller, he had fallen sick and was admitted at Kanhan Area Hospital of the management and during the period of hospitalisation, he was dismissed from service on the ground of absenteeism. In the departmental enquiry, he had submitted the medical certificate for the period of his illness but the Enquiry Officer did not considered the same. The workman was not given opportunity to defend himself properly. To minimize the strength of surplus manpower, the management had adopted this illegal way of retrenchment. Absenteeism is not a major misconduct but for a minor misconduct, the punishment of dismissal is not justified and proper. The matter was brought to the notice of Nagpur Headquarter of WCL. But in reply, the management has informed the Union as follows—

"Shri Mansoo S/o Adgoo Ex-Dresser Ghodawari Colliery has crossed the age of 40 years and hence not coming in the consideration zone." It is prayed that the workman be reinstated in service with backwages and all benefits.

3. Vide order dated 12-9-06 passed on the ordersheet of this reference proceeding, the reference proceeded exparte against workman/Union.

4. The case of the management in brief is as follows: The workman was a regular absentee. He was given various chargesheets, warnings etc. for remaining absent from duty on various occasions. That the services of Shri Mansoo, Ex-Driller-cum-Dresser were governed by the provision of Coal Mines Regulations 1957. "As he was a competent person" he was not supposed to remain absent without prior permission/sanctioned leave. The workman should have sent sick report either to the Management/Manager or to the Medical Officer of the Colliery. The absenteeism is rampant in the Coal Mine and when the workman remains absent, the work of production of coal is adversely affected. Considering the seriousness of the misconduct, the management is bound to take serious action in the case of absenteeism. The workman absented himself from duty w.e.f. 14-7-85 to 19-7-85. When he reported for duty considering the explanation given by him, he was permitted to resume duty w.e.f. 20-7-85 by issuing him a warning letter No. 1147/85 dated 19-7-85. He was again absented from duty for the period from 28-9-85 to 15-10-85. Again a warning letter No. 1713/85 dated 15-10-85 was issued to him for the same. He again absented himself from duty from 11-2-86 to 12-2-86 without permission, intimation or sanctioned leave. Again he was issued with a warning letter. The workman again remained absent from duty w.e.f. 28-2-86 to 2-5-86. Out of the above (he was reported to be sick for a period from 7-4-86 to 19-4-86) for remaining absent, he was issued with a chargesheet dated 2-5-86. The workman submitted reply dated 16-5-86 wherein he admitted the charges levelled against him and assured the management that he will not repeat the same. Considering

the above undertaking given by the workman, a lenient view was taken against him and he was issued with a warning letter. The workman again remained absent from duty from 10-2-87 to 20-4-87 (date of issue of show cause notice). For this misconduct, he was issued with a show cause notice dated 20-4-87. On hearing the workman, the management again considered his case sympathetically and he was permitted to resume duty on issuing a warning letter. The workman again remained absent from duty w.e.f. 1-2-88 to 7-9-88. For this, he was again issued with a chargesheet dated 7-9-88. In reply, the workman advanced the charge and submitted that he could not come on duty due to illness of his father and uncle. The management issued a letter dated 7-9-88 to the workman stating that his reply was found unsatisfactory. A departmental enquiry was conducted against him. In the meantime, the workman was permitted to resume duty w.e.f. 9-9-88. The workman again absented from duty w.e.f. 18-7-91 to 9-10-91. For this misconduct, he was again issued with a chargesheet dated 9-10-91. The workman submitted his reply. Considering the explanation given by the workman, he was again issued with a warning letter. The workman again remained absent from duty w.e.f. 1-2-92 to 29-4-92. After considering the explanation given by the workman and with a view to grant him one more opportunity to improve himself, he was permitted to resume duty w.e.f. 2-5-92 and he was issued with a warning letter. The workman again absented himself from 28-5-93 to 25-8-93. In this manner, the workman remained absent from duty without intimation/permission or sanctioned leave several times. The workman absented himself w.e.f. 1-4-95 to 31-8-95, for this misconduct, he was issued with a chargesheet. An enquiry was conducted into the charges leveled against the workman in accordance with law. The Enquiry Officer after completing the enquiry submitted the enquiry report dated 31-10-95 holding that the charges leveled against the workman are proved. Having received the enquiry report, the management issued a letter dated 11-5-96 to the workman intimating that pending enquiry, he was permitted to resume duty but he remained absent w.e.f. 1-3-96 without intimation/permission or sanctioned leave. He was once again advised to report for duty within 3 days of the receipt of this letter. The workman neither replied to the said letter nor reported on duty. The management was left with no option but to terminate his service vide order dated 2-8-96.

5. As the case proceeded *ex parte* against the workman/Union, there is no evidence on record on behalf of workman/Union. The management in order to prove their case filed affidavit of their witness Shri Lalji Indurkar, then posted as Dy. Personnel Manager at Datla Sub Area, Kanhan Area in WCL.

6. I have heard Shri A. K. Shashi, Advocate (learned counsel for the management). I have very carefully gone through the evidence on record.

7. The case of the management is fully established and proved from the unchallenged and uncontroverted affidavit of their witness Shri Lalji Indurkar.

8. Therefore the reference is decided *ex parte* in favour of the management and against the Workman/Union without any orders as to costs holding that the action of the Manager, Ghorawari Colliery, PO: Ghorawari, Teh. Junnardeo, Distt. Chhindwara (MP) in dismissing Sh. Mansoo S/o Adjoor, driller-cum-dresser of Ghorawari Colliery of WCL, Kanhan Area from services w.e.f. 2-8-96 is legal and justified and consequently the workman is not entitled to any relief.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2573. औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू. सी.एल. के प्रबंधन के संयुक्त नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ सं. 39/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-08-2008 को प्राप्त हुआ था।

[सं. एल-22012-448/1994-आई आर (सी. 11)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 20th August, 2008

S.O. 2573. In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/1995) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of WCL and their workmen, which was received by the Central Government on 20-08-2008.

[No. L-22012-448/1994-IR(C-11)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

No. CGIT/LC/R/39/95

Presiding Officer : Shri C. M. Singh

Shri Kishan, S/o. Shri Chandul,

Tub Loader,

C/o. Shri P. K. Bannerjee,

Koyla Mazdoor Sangh,

Post Chandametta,

Distt. Chhindwara (MP)

.. Workman/Union

Versus

The Manager,
Bhamori Colliery of WCL,
Pench Area,
PO Bhamori-Via-Parasia,
Distt. Chhindwara (MP)

... Management

AWARD

Passed on this 29th day of July, 2008

1. The Government of India, Ministry of Labour vide its Notification No. L-22012(448)/94-IR C-II dated 16-2-95 has referred the following dispute for adjudication by this tribunal:—

"Whether the action of the Manager, Bhamori Colliery of WCL, Pench Area, PO Bhamori Via Parasia, Distt. Chhindwara (M.P.) in dismissing Shri Kishan S/o Gendlal T. No. 2976 Tub-loader of Bhamori Colliery of WCL, Pench Area from services w.e.f. 6-9-88 is justified? If not, to what relief the worker is entitled to?"

2. The case of workman in brief is as follows. That the workman Kishan was employed as tub-loader with the Bhamori Colliery, WCL, Pench Area, Parasia since 1976. Due to physical weakness, he remained absent from duty in the year 1988. Thereafter he again joined duty in the Bhamori Colliery but the management without any reason terminated his services in the year 1988, hence the reference.

3. The case of the management in brief is as follows. That workman Shri Kishan was a habitual absentee and therefore a chargesheet dated 5-7-88 was issued to him. The workman replied the chargesheet. Reply was not found satisfactory and therefore a departmental enquiry was conducted against the workman according to rules. The workman during the course of enquiry accepted his guilt. Under the above circumstances, the punishment of dismissal from service was awarded to him.

4. Vide order dated 16-1-07, the reference proceeded ex parte against the workman. As the reference proceeded ex parte against the workman, there is no evidence on behalf of the workman on record.

5. The management in order to prove their case filed affidavit of their witness Shri D. K. Chourey, then posted as Dy. Personnel Manager, WCL, Pench Area.

6. I have heard Shri A.K. Shashi, Advocate for the management. I have very carefully gone through the evidence on record.

7. The case of the management is fully established and proved from the uncontroverted and unchallenged affidavit of management's witness Shri D.K. Chourey. The

reference is, therefore, decided in favour of the management and against the workman without any orders as to costs holding that the action of the Manager, Bhamori Colliery of WCL, Pench Area, PO Bhamori Via Parasia, Distt. Chhindwara (M. P.) in dismissing Shri Kishan S/o Gendlal T. No. 2976 tub-loader of Bhamori Colliery of WCL, Pench Area from services w.e.f. 6-9-88 is justified and consequently the workman is not entitled to any relief.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2574.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू. सी.एल. के प्रबंधन के संबंध निर्योजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ सं. 126/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-08-2008 को प्राप्त हुआ था।

[सं. एल-22012/2009/2002-आईआर(सीएम-11)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 20th August, 2008

S.O. 2574.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. 126/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial dispute between the management of Western Coalfield Limited, and their workmen, which was received by the Central Government on 20-08-2008.

[No. L-22012/2009/2002-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

No. CGIT/LC/R/126/03

Presiding Officer : Shri C. M. Singh

The General Secretary,
Bhartiya Koyala Khadan Mazdoor Sangh (BMS),
Vishwakarma Bhawan,
PO. Parasia,
Distt. Chhindwara,
Chhindwada

Workman/Union

Versus

The Manager,
Western Coalfield Limited of Pench Area,
PO Parasia, Distt. Chhindwara,
Chhindwara

... Management

AWARD

Passed on this 7th day of August, 2008

1. The Government of India, Ministry of Labour vide its Notification No. 1-22012/209/2002-IR (CM-II) dated 11-7-2003 has referred the following dispute for adjudication by this tribunal.

"Whether the demand of the BKKMS from the management of WCL, Pench Area for regularizing Shri Rajendra Singh working in Barkui Central Hospital as Sr. Optometrist in Technical Grade-A is legal and justified? If so, to what relief is the workman entitled and from what date?"

2. Vide order dated 29-8-05 passed on the ordersheet of this reference proceeding, the reference proceeded *exparte* against the workman/Union. No statement of claim has been filed on behalf of workman/Union.

3. The case of the management in brief is as follows. — The workman/Union has claimed promotion from the post of Sr. Optometrist Technical Grade-B to the post of the Optometrist Technical Grade A. The terms of reference are vague. The terms of reference do not speak from which date the claim has been made by the workman. Workman Shri Rajendra Singh is working as Sr. Optometrist in Barkui Central Hospital in T & S Grade-B. As per cadre scheme, the zone for promotion from T & S Grade-B to T & S Grade A is considered according to seniority. The official designation of T & S Grade-B is senior Technical (Refraction) Optometrist. That in the instant case, the promotion order was issued at Area level in isolation and Shri Rajendra Singh was promoted as Sr. Optometrist in T & S Grade-B w.e.f. 19-1-91. That on the same date by the same authority, he was granted difference of wages of T & S Grade-A w.e.f. 1-4-1992. That the basic facts of the case are that Shri Rajendra Singh has never worked on higher grade. The issue of his promotion and sanction of difference of wages is still under enquiry and review before the Competent Authority. Any letter or order issued wrongly and inadvertently in contravention of rule cannot provide the claim to the illegally benefited persons. That Shri Rajendra Singh has never discharged the duties of the higher category. In fact he did duties as per his designation. As already stated, the payment of difference of wages to him which has been made earlier is under examination.

4. As the case proceeded *exparte* against the workman/Union there is no evidence on behalf of the workman/Union on record.

5. The management in order to prove their case filed affidavit of their witness Shri H. K. Singh, then working as Dy. Chief personnel Manager at WCL, Pench Area.

6. I have heard Shri A. K. Shashi, Advocate the learned counsel for the management and perused the evidence on record.

7. The case of the management is fully established and proved from the uncontroversed and unchallenged affidavit of management's witness Shri H. K. Singh.

8. In view of the above, the reference is decided in favour of the management and against the workman/Union without any orders as to costs holding that the demand of the BKKMS from the management of WCL, Pench Area for regularizing Shri Rajendra Singh working in Barkui Central Hospital as Sr. Optometrist in Technical Grade-A is not legal and justified. Consequently the workman is not entitled to any relief.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2575. औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में केन्द्रीय सरकार एस.ई. सी.एल. के प्रबंधन के संघर्ष नियंत्रकों और उनके कर्मचारों के बीच अनुसूचन में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाद (नं. 269/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-08-2008 प्राप्त हुआ था।

[सं. एल-22012/96/1999-आई.आर.(सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 20th August, 2008

S.O. 2575. In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 269/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of SCL and their workmen, which was received by the Central Government on 20-08-2008.

[No. 1-22012/96/1999-IR(CM-II)]

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

No. CGIT/LC/R/269/99

Presiding Officer : Shri C. M. Singh

The Secretary,
Janta Mazdoor Sangh (HMS),
Amradandi, Store Complex,
PO: Amlai Colliery,
Distt. Shahdol

...Workman/Union

Versus

General Manager,
Sohagpur Area of SECL,
PO: Dhappuri,
Distt. Shahdol (MP),
Shahdol

...Management

AWARD

Passed on this 4th day of August, 2008

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/96/99/IR((CM-II) dated 30-7-99 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the Sub Area Manager Burhar Sub Area of the SECL, PO: Dhanpuri, Distt. Shahdol in not regularizing as Machinist with effect from July, 1993 of Sh. Ajay Singh is legal and justified? If not, to what relief is the workman concerned entitled?”

2. Vide order dated 15-3-05, passed on the ordersheet of this reference proceeding, the reference proceeded exparte against the workman Shri Ajay Singh/Union.

3. The case of the management in brief is as follows. Workman Shri Ajay Singh was initially appointed as General Mazdoor Category-I during the year 1988. He was promoted as Machinist helper Category-II vide office order No. 816 dated 1-2-94. He did not complete the requisite attendance in a calendar year as on July, 1993. The workman was not issued any authorization to work as machinist by the Competent Authority. Hence he was not entitled for promotion to the post of Machinist. However he became eligible to consider to the post of Machinist Category-IV. His case was considered in the light of recommendations of Departmental Promotional Committee, the workman was regularized as Machinist Category-IV vide office order No. 2662 dated 20-10-95. As the workman has already been regularized to the post of Machinist Cat-IV, the present reference becomes infructuous.

4. As the reference proceeded exparte against the workman, there is no evidence on behalf of workman/Union on record. The management in order to prove their case

examined their witness Shri M.L. Prajapat, then working as Sub Area Manager in SECL, Sohagpur Area.

5. I have heard Shri A.K. Shashi, Advocate for the management. I have very carefully gone through the entire evidence on record.

6. The case of the management is fully established and proved from the uncontroverted and unchallenged affidavit of management's witness Shri M.L. Prajapat.

7. The reference is, therefore, answered in favour of the management and against the workman/Union without any orders as to costs holding that the action of the Sub Area Manager, Burhar Sub Area of the SECL, PO: Dhanpuri, Distt. Shahdol in not regularizing Sh. Ajay Singh as Machinist with effect from July, 1993 is legal and justified and consequently the workman is not entitled to any relief.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 20 अगस्त, 2008

का. अ. 2576.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस.ई. सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ सं. 235/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-08-2008 प्राप्त हुआ था।

[सं. एल-22012/278/1996-आई.आर.(सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 20th August, 2008

S.O. 2576.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. 235/1997) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of SECL, and their workmen, which was received by the Central Government on 20-08-2008.

[No. L-22012/278/1996-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

No. CGIT/LC/R/235/97

Presiding Officer : Shri C. M. Singh

Shri N.L. Pandey, General Secretary,
M.P.K.M.S (HMS),
Amrapali Duplex,
Near Radha Swami Satsang,
Napier Town,
Jabalpur.

...Workman/Union

Versus

General Manager,
SECL, Korba Area,
P.O. Korba Colliery,
Tah. Korba, Distt. Bilaspur

... Management

AWARD:

Passed on this 7th day of August-2008

1. The Government of India, Ministry of Labour vide its Notification No. L-22012-278/96-IR (C-II) dt. 06-10-77 has referred the following dispute for adjudication by this tribunal :

"Whether the demand of the M.P. Koyla Mazdoor Sabha (HMS) for regularization of 11 Sh. Ramesh Kumar and 44 other contract workers (list enclosed) engaged in the underground mines of Surakachhar Colliery of SECL is legal and justified? If so, to what relief are the workmen entitled and from which date?"

2. Vide order dated 11-3-05 passed on the order sheet of this reference proceeding, the reference proceeded *ex parte* against the workmen Union. No statement on the has been filed on behalf of the workmen Union.

3. The case of the management in brief is as follows. The contractors Smt. Shri R.S. Kaushik and Deen Nath were given certain miscellaneous work which were neither permanent nor perennial in nature. That the execution of such miscellaneous work in V/g such as removal of silt, construction of side wall, construction of side pillar, white washing, cleaning etc., tenders were invited from the contractors and Smt. R. S. Kaushik was awarded the work order No. 220 dated 14-2-87 for removal of silt etc. Subsequently he was given several work orders for removal of silt etc. Similarly contractor Shri Deen Nath was also awarded contract for execution of miscellaneous work in U/G. He was given the work of removal of silt etc. work order. The silt contractor was awarded the work of whitewashing and construction of pillars and side drainage. That the aforesaid work were completed and the work completion certificate issued by the management. That the work awarded to the contractors was in the nature of miscellaneous casual work. It is the contractor who engage the labour for execution of the work awarded to him. It is specifically stated that Sh. Ramesh Kumar and others were never engaged by any of the contractor for execution of drilling and other work in underground as alleged by the Union. As per the terms of the contract the contractors employ the workers for execution of definite nature of work that has been assigned to them. The wages will be paid by the contractor to his labourers. There is no illegality/irregularity in awarding miscellaneous work

nature of work to the contractor. It does not amount to violation of any provision of law. The claims were not engaged by the contractors for execution of the work given to them under the contractor by the management of SECL, Korba Area.

4. As the case proceeded *ex parte* against the workmen/Union, there is no evidence on behalf of workmen/Union on record.

5. The management in order to prove their case filed affidavit of their witness Shri V.R. Bakshi then posted as Personnel Manager.

6. I have heard Shri A.K. Shashi, Advocate learned counsel for the management and perused the evidence on record.

7. The case of the management is fully established and proved from the uncontroverted and unchallenged affidavit of management's witness Shri V.R. Bakshi.

8. In view of the above, the reference is decided in favour of the management and against the workmen/Union without any orders as to costs holding that the demand of the M.P. Koyla Mazdoor Sabha (HMS) for regularization of Sh. Ramesh Kumar and 44 other contract workers (list enclosed) engaged in the underground mines of Surakachhar Colliery of SECL is not legal and justified. Consequently the workmen are not entitled to any relief.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2577.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसारण में केन्द्रीय सरकार एस.ई. सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ सं. 119/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-08-2008 को प्राप्त हुआ था।

[सं. एल-22012-6/1995-आई आर(सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 20th August, 2008

S.O. 2577.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 119/1995) of the Central Government Industrial Tribunal-Labour Court, Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of SECL and their workmen, which was received by the Central Government on 20-08-2008.

[No. L-22012-6/1995-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/11995

Presiding Officer : Shri C. M. Singh

The President

M.P.K.M.S (HMS),

Nawin Nagar,

Post. Amlai Colliery,

Distt. Shahdol (MP)

... Workman/Union

Versus

Sub Area Manager,

Chachai and Rungta Group,

Post Amlai Colliery,

Distt. Shahdol (MP)

... Management

AWARD

Passed on this 5th day of August-2008

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/6/95-IR (C-II) dated 22-6-95 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the Sub Area Manager, Chachai & Rungta Group of Mines of SECL Sohagpur Area of SECL in dismissing Shri Manohar S/o Bahira, T. No. 844, Viveknagar incline w.e.f. 23-9-1992 is legal and justified? If not, to what relief the workman is entitled?”

2. Vide order dated 4-5-06 passed on the ordersheet of this reference proceeding, the reference proceeded exparte against the workman Shri Manohar/union. No statement of claim has been filed on behalf of the workman/union.

3. The case of the management in brief is that workman Shri Manohar was initially appointed as General Mazdoor w.e.f. 4-10-1976. He was a habitual absentee. He was cautioned for his poor attendance and was advised to improve his conduct but he did not show any improvement. The attendance particulars of workman in the year 1989 is only 74 days. He has attended 56 days in the year 1990. He has put 74 days attendance in the year 1991. Due to aforesaid poor attendance and habitual absenteeism without intimation and sanctioned leave, the management was compelled to take disciplinary action against him. The workman was issued with a chargesheet under clause 26.24 of the certified standing orders. The reply submitted by the workman dated 14-5-92 was not found satisfactory. A departmental enquiry was conducted against the workman properly and legally. The Enquiry Officer submitted his report before the Competent Authority holding that the charges are proved against the

workman. On the basis of findings submitted by Enquiry Officer, proposal was put up by the Colliery Manager for initiating punishment before the Competent Authority i.e. for dismissal from service which was approved by the Competent Authority. That workman Shri Manohar was dismissed from the services of the company vide letter dated 23-9-92. The workman submitted a mercy appeal to the management. On the ground of mercy, the workman was offered re-employment and he was posted at Jamuna & Kotma Area but he was reluctant to resume his duties. At this stage, he submitted his resignation.

4. As the reference proceeded exparte against the workman/union, there is no evidence on behalf of the workman/union on record.

5. The management in order to prove their case filed affidavit of their witness Shri K. A. Sunder, then posted as Dy. Personnel Manager in Amlai & Bangwar Sub Area.

6. I have heard Shri A.K. Shashi, Advocate learned counsel for the management. I have very carefully gone through the evidence on record.

7. The case of the management is fully established and proved from the uncontroverted and unchallenged affidavit of their witness Shri K.A. Sunder. Therefore the reference is decided in favour of the management and against the workman/union without any orders as to costs holding that the action of the Sub-Area Manager, Chachai & Rungta Group of Mines of SECL, Sohagpur Area of SECL in dismissing Shri Manohar S/o Bahira, T.No.844, Viveknagar incline w.e.f. 23-9-1992 is legal and justified and consequently the workman is not entitled to any relief.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2578.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस.ई. सी.एल. के प्रबंधन के संघर्ष नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ सं. 115/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-08-2008 को प्राप्त हुआ था।

[सं. एल-22015/13/1991-आई.आर.(सी-11)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 20th August, 2008

S.O. 2578.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. 115/1996) of the Central Government Industrial Tribunal-cum-Labour Court,

Jabalpur as shown in the Annexure, in the Industrial dispute between the management of SECL, and their workmen, which was received by the Central Government on 20-08-2008.

[No.1-22015/13/91-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGITM.C/R/115/96

Presiding Officer : Shri C. M. Singh

Smt. Anjan,

Dafai, Chirimiri,

Prathamik Paathshala ke sameep,

Chirimiri,

Distt. Surguja (MP)

... Workman-Union

Versus

Dy. General Manager,

SECL, Chirimiri colliery,

Post Chirimiri,

Distt. Surguja (MP)

... Management

AWARD

Passed on this 31st day of July, 2008

1. The Government of India, Ministry of Labour vide its Notification No 1-22015/13/91-IR(C-II) dated 25-4-96 has referred the following dispute for adjudication by this tribunal :

"Whether the action of the management of SECL, Chirimiri Colliery in retrenching Sh. Anjan from service is legal and justified? If not, what relief the concerned workman is entitled to?"

2. The case of legal heir of deceased workman Smt. Anjan in brief is as follows. That Shri Anjan was in the employment of SECL, Chirimiri colliery, Distt. Surguja, MP. That to his surprise, it was informed that he will be retiring from service on 1-7-89. His date of birth as shown in the school certificate is 1-7-35. The age of retirement in the colliery is 60 years and thus workman Shri Anjan would have completed 60 years only on 1-7-1995 and therefore he is entitled to continue in service till 1-7-95 but he was illegally retired on 1-7-1989. That the workman met with authorities and submitted copies of documents as proof of his date of birth but the management did not consider the same. When the management refused to decide his age, he filed petition before the Hon'ble High Court. The Hon'ble High Court in the petition M.P No 3358/89 directed that the matter be decided by Age Determination Committee. The School Certificate should have been considered by the Age Determination Committee. That there was no record with the management to show that

the age of the workman was other than 1-7-1935. That no reasons have been given by the Age Determination Committee and the management for rejecting the documents of the workman. The action of the management is unjust, unfair and illegal. It is, therefore, prayed that the reference be decided in favour of the legal heirs of the deceased workman and against the management.

3. The case of the management in brief is as follows. That the workman has claimed his date of birth as 1-7-1935, whereas as per the record being maintained by the management of SECL, Chirimiri Colliery, the date of birth of workman has been recorded as 1-7-1989. The age of retirement of the employees of the Coal India is 60 years. Therefore prior to attaining the age of 60 years, workman was issued with retirement notice dated 31-12-1988. That on attaining the age of retirement, workman stood retired w.e.f. 1-7-1989. That according to Form-B register, workman's date of birth is 1-7-1929. The workman was served with a copy of service excerpts wherein the date of birth of the deceased workman has been recorded as 1-7-1929. The deceased workman did not raise any objection on receipt of notice. On receipt of the order of Hon'ble High Court, the management referred the case of the workman to the Age Determination Committee for determination of the age of the workman. After considering the case of the workman as well as the statutory record, the Age Determination Committee has come to the conclusion that the date of birth recorded in Form-B Register as 1-7-1929 is correct. In view of the above, the reference order deserves to be decided in favour of the management and against the workman.

4. Vide order dated 15-12-05, the case proceeded ex parte against the workman. As the case proceeded ex parte against legal heir of workman, there is no evidence on record on behalf of the legal heir of the workman.

5. The management in order to prove their case filed affidavit of their witness Shri Brij Mohan Rao, then working as Personnel Manager.

6. The case of management is fully established and proved from the uncontroverted and unchallenged affidavit of management's witness Shri Brijmohan Rao. The reference, is therefore, decided in favour of the management and against the legal heir of the workman without any orders as to costs holding that the action of the management of SECL, Chirimiri Colliery in retrenching Sh. Anjan from service is legal and justified and consequently the legal heir of the workman is not entitled to any relief.

7. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2579.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दी बैंक ऑफ राजस्थान लि. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचाट (संदर्भ सं. 70/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2008 को प्राप्त हुआ था।

[सं. एल-12012/175/1994-आई.आर.(बी-3)]

बी. के. मनचन्दा, अनुभाग अधिकारी

New Delhi, the 20th August, 2008

S.O. 2579.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 70/1995) of the Central Government Industrial Tribunal-cum-Labour Court Jaipur as shown in the Annexure, in the Industrial dispute between the management of The Bank of Rajasthan Ltd., and their workmen, received by the Central Government on 20-8-2008.

[No. L-12012/175/1994-IR(B-3)]

B. K. MANCHANDA, Section Officer

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 70/95

रैफरेंस: केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-12012/175/94-आई.आर.(बी.3) दिनांक 22-11-1995

श्री विनोद कुमार जैन पुत्र श्री गर्दन लाल, प्लॉट नं. 31/71-03

वरुण पथ, मानसरोवर, जयपुर।

—प्रार्थी

बनाम

दी असिस्टेंट जनरल मैनेजर, दी बैंक ऑफ राजस्थान लि. सी-3,

सरदार पटेल मार्ग, सी-स्क्रीम, जयपुर।

—अप्रार्थीगण

उपस्थित

पीठासीन अधिकारी: श्री गौतम प्रकाश शर्मा, आर. एच. जे. एस.

प्रार्थी की ओर से : श्री कुणाल रावत

अप्रार्थी की ओर से : श्री आलोक फलरपुरिया

दिनांक अवरार्ड : 22-7-2008

अवरार्ड

1. केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली ने उपरोक्त अधिसूचना के जरिये इस आशय का विवाद इस न्यायाधिकरण को अधिनियमित हेतु निर्देशित किया है कि "Whether the action of the

management of the Bank of Rajasthan Ltd. is justified in terminating the services of Shri Vinod Kumar Jain Peon & Farrash w.e.f. 21-10-86? If not, to what relief the workman is entitled to and from what date?"

2. विवाद जो भेजा गया उसके संबंध में प्रार्थी की ओर से स्टेटमेंट ऑफ क्लेम पेश हुआ कि उसकी नियुक्ति 10-1-85 से 10-3-85 के लिए अप्रार्थी बैंक में की गई थी। उसके बाद अन्य आदेशों से प्रार्थी की अवधि समय-समय पर बढ़ाई जाती रही, इस तरह से प्रार्थी श्रमिक ने अप्रार्थी संस्थान में जनवरी, 1985 से अक्टूबर 1986 तक लगातार कार्य किया किन्तु अचानक ही अप्रार्थी संस्थान द्वारा 21-10-83 को मौखिक आदेश से प्रार्थी को सेवा से हटा दिया। प्रार्थी को यह आश्वासन अवश्य दिया कि उसे वापस सेवा में रखा जाएगा, इस आश्वासन के कारण प्रार्थी श्रमिक इंतजार करता रहा लेकिन उसे कोई नौकरी नहीं दी गई। एक शिकायत इस संबंध में सहायक श्रम आयुक्त(केन्द्रीय) को प्रस्तुत की गई जिसपर अप्रार्थी को समझौता चर्चा हेतु आमंत्रित किया गया लेकिन कोई समझौता नहीं होने से उपरोक्त विवाद भेजा गया है। क्लेम में प्रार्थी श्रमिक ने अपनी सेवा मुक्ति अनुचित व गैर कानूनी बताते हुए दर्शाया है कि उसने अप्रार्थी संस्थान में लगातार 240 दिन से अधिक दिनों तक कार्य किया एवं प्रार्थी श्रमिक की सेवा मुक्ति से पूर्व औद्योगिक विवाद अधिनियम 1947 (जो आगे इस निर्णय में मात्र अधिनियम लिखा जाएगा) की धारा 25-एफ की पालना नहीं की गई। प्रार्थी को न तो कोई आरोप पत्र दिया गया न ही कोई जांच की गई। प्रार्थी जो कार्य करता था वह स्थाई प्रकृति का था एवं उसे स्थाई करने के स्थान पर सेवा मुक्ति करना अनफेयर लेबर प्रैक्टिस की परिभाषा में आता है। प्रार्थी को एक माह का नोटिस वेतन भी नहीं दिया गया तथा अप्रार्थी संस्थान ने अधिनियम के नियम 77 व 78 की पालना भी नहीं की है। प्रार्थी से कनिष्ठ एवं प्रार्थी की सेवा समाप्ति के बाद कई व्यक्तियों को नौकरी पर रखा गया है किन्तु प्रार्थी को यह अवसर नहीं दिया गया है अतः सेवा समाप्ति आदेश दिनांक 21-10-86 गलत व अवैध है जो गलत व अवैध घोषित किया जावे।

3. अप्रार्थी बैंक की ओर से जवाब पेश हुआ। आरंभिक आपत्तियों में बताया कि प्रार्थी की नियुक्ति 10-1-85 से 30-3-85 तक की गई थी एवं दिनांक 30-3-85 को ही उसकी सेवा स्वतः समाप्त हो गई। प्रार्थी की ओर से यह विवाद 8 वर्ष बाद लाया गया है जिसका कोई संतोषप्रद कारण नहीं दर्शाया गया है अतः रैफरेंस मात्र इसी आधार पर खारिज होने योग्य है। दूसरा ऐतराज यह रहा है कि प्रार्थी को एक निश्चित अवधि के लिए नियुक्ति दी गई थी, उक्त अवधि के समाप्त होने पर उसकी सेवा स्वतः ही समाप्त हो जाती है अतः धारा 2(00) (बीबी) अधिनियम के अनुसार प्रार्थी को रैफरेंस चलाने योग्य नहीं है।

4. मदवार उत्तर प्रस्तुत करते हुए बताया कि प्रार्थी की नियुक्ति किसी स्थाई पद पर एवं किसी भी तरह की चयन प्रक्रिया अपनाये बिना मात्र 10-1-85 से 10-3-85 तक ही की गई थी। इस तरह से प्रार्थी ने सेवा समाप्ति के एक वर्ष पूर्व की अवधि में निरन्तर रूप से 240 दिन कार्य किया, यह सिद्ध नहीं है अतः धारा 25-एफ अधिनियम

का फायदा प्रार्थी को नहीं मिल सकता एवं प्रार्थी के अन्य जो कथन रहे हैं उन सभी को अस्वीकार किया गया है। साक्ष्य में प्रार्थी परीक्षित हुआ एवं बैंक की ओर से श्री मूलचंद जैन के बयान हुए।

5. बहस सुनी। प्रतिनिधि प्रार्थी की बहस है कि प्रार्थी ने अपना कथन स्टेटमेंट ऑफ क्लेम में विस्तार से दर्शाया है एवं साक्ष्य में प्रार्थी स्वयं परीक्षित हुआ है। प्रार्थी के कथनों के अनुसार उसने 240 दिन से अधिक कार्य किया एवं वह कार्य स्थाई प्रकृति का था। उसके शपथ पत्र में यह भी आया है कि पारस कुमार जैन व मोहन लाल शर्मा जो उसके साथ सेवा से हटायें गये थे उन्हें तो वापस नौकरी में ले लिया एवं रैगुलर भी कर दिया गया है तथा उससे कनिष्ठ श्रमिक आज भी संस्थान में कार्यरत हैं। इस तरह से उनकी बहस है कि धारा 25-एफ के प्रावधानों के अनुसार उसे कोई नोटिस वेतन नहीं दिया गया, धारा 25-बी व एच की पालना भी नहीं की गई है।

6. अप्रार्थी ने अपनी बहस में बताया कि प्रार्थी ने सेवा समाप्ति की तिथि से पिछले एक वर्ष में लगातार 240 दिन कार्य किया, इस तथ्य को सिद्ध करने का भार प्रार्थी पर था किन्तु प्रार्थी की ओर से कोई साक्ष्य पेश नहीं हुई है। प्रार्थी की नियुक्ति प्रदर्श एम-1 से की गई थी जो 60 दिन के लिए थी। फिर उसकी नियुक्ति 20 दिन के लिए अर्थात् 30-3-85 तक बढ़ाई गई थी। इस तरह से प्रार्थी ने विपक्षी बैंक में मात्र 80 दिन ही कार्य किया है अतः प्रार्थी के मामले में धारा 35-एफ अधिनियम लागू नहीं होती। प्रदर्श एम-1 को देखने से प्रार्थी की नियुक्ति अस्थायी थी एवं अस्थायी नियुक्ति जो एक निश्चित अवधि के लिए एवं निश्चित वेतन पर की गई थी एवं उक्त अवधि समाप्त होने पर उसका नियुक्ति आदेश स्वतः ही समाप्त हो जाता है। उनको आगे बहस है कि प्रार्थी ने अपनी जिरह में स्वीकार किया है कि उसकी नियुक्ति किसी विज्ञापन के आधार पर अथवा कोई साक्षात्कार लेकर नहीं की गई थी तथा यह भी स्वीकार किया है कि वर्ष 1990 में आवेदन स्थाई नियुक्ति हेतु लिये गये थे, प्रार्थी ने भी आवेदन किया, उसे साक्षात्कार के लिए भी बुलाया गया लेकिन उसका चयन नहीं हुआ। उनकी आगे बहस है कि सेवा समाप्ति वर्ष 1986 में की गई है एवं विवाद वर्ष 1995 में अर्थात् 9 वर्ष बाद लाया गया है जिसका भी कोई कारण नहीं बताया गया है।

7. मैंने बहस पर गौर किया। प्रार्थी ने सेवा समाप्ति से पूर्व एक वर्ष में निरन्तर 240 दिन कार्य किया, इस तथ्य को सिद्ध करने का भार प्रार्थी पर था किन्तु प्रार्थी श्रमिक की ओर से ऐसी कोई साक्ष्य पेश नहीं हुई है। इसके विपरीत प्रदर्श एम-1 व एम-2 को देखने से प्रार्थी श्रमिक ने अप्रार्थी बैंक में 10-1-85 से 30-3-85 तक ही कार्य किया जो अवधि 240 दिन नहीं होती। प्रदर्श एम-1 को देखने से उसकी नियुक्ति नितान्त अस्थायी एवं एक निश्चित अवधि के लिए की गई थी। अस्थायी कर्मचारियों की कोई वरिष्ठता सूची विपक्षी बैंक में रखी जाती थी, ऐसा प्रार्थी का कथन नहीं है। जब तक यह रिश्ता नहीं हो जाये कि वरिष्ठता सूची थी तब तक वरिष्ठता सूची जारी नहीं करने का आधार उचित नहीं है। धारा 25-एच अधिनियम के उल्लंघन के संबंध में भी कोई विश्वसनीय साक्ष्य प्रार्थी की ओर से पेश नहीं हुआ है। पारस कुमार जैन व मोहन लाल को पुनः नौकरी पर लेने का उल्लेख है लेकिन उनका कोई नियुक्ति पत्र पेश नहीं हुआ है न ही वे साक्ष्य के

लिए पेश हुए। प्रार्थी की नियुक्ति निश्चित अवधि व निश्चित वेतन पर की गई थी अतः धारा 2(00)(चोचो) के अन्तर्गत प्रार्थी का मामला छंटनी का नहीं रह जाता है। रैफरेंस भी वर्ष 1986 के बाद वर्ष 1995 में लाया गया है। इन सब कारणों से प्रार्थी का क्लेम स्वीकार होने योग्य नहीं है अतः भारत सरकार द्वारा भेजे गये रैफरेंस का उत्तर निम्न प्रकार दिया जाता है :

“बैंक ऑफ राजस्थान लि. के प्रबन्धन द्वारा श्री विनोद कुमार जैन, पीओन-फरॉश की सेवाएं दिनांक 21-10-86 से समाप्त किये जाने की कार्यवाही उचित एवं वैध है। प्रार्थी किसी अनुतोष का अधिकारी नहीं है।”

5. अर्वाइ आज दिनांक 22-7-2008 को खुले न्यायालय में लिखवा जाकर सुनाया गया जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

गोपब प्रकाश शर्मा, पीठासीन अधिकारी

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2580, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दी बैंक ऑफ राजस्थान लि. प्रबंधन के संघर्ष नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में रिटिड औद्योगिक विवाद में औद्योगिक अधिकरण, जोधपुर के पंचाट (संदर्भ सं. 08/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2008 प्राप्त हुआ था।

[सं. एल-12012/280/2003-आईआर.(चो-1)]

बी. कं. मनचन्दा, अनुभाग अधिकारी

New Delhi, the 20th August, 2008

S.O. 2580.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. 08/2004) of Industrial Tribunal-cum-Labour Court, Jodhpur as shown in the Annexure, in the Industrial dispute between the management of The Bank of Rajasthan Ltd. and their workmen, received by the Central Government on 20-8-2008.

[No. 1-12012/280/2003-IR(B-1)]

B K MANCHANDA, Section Officer

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, जोधपुर
पीठासीन अधिकारी :- श्री पुष्पन्त सिंह हाड़ा, आर.एच.जे.एस.
औद्योगिक विवाद (केन्द्रीय) संख्या : 8/2004 श्री शपथकार अधिवक्ता
मार्फत प्रेसिडेंट राजस्थान स्टेट बैंक वर्कर्स आर्गनाइजेशन एस. पी.
बी. जे. मण्डिया रोड ब्रॉन पानी मण्डला।

प्रार्थी

वचन

1. सहायक महाप्रबन्धक, दी बैंक ऑफ राजस्थान लि. क्षेत्रीय कार्यालय,
पीठासीन रोड बोम्बे मोर्टम चौराहा, जोधपुर।

2. प्रबन्ध निदेशक, दी बैंक ऑफ राजस्थान लि. प्रबन्ध निदेशक, केन्द्रीय कार्यालय सी-3, सरदार पटेल मार्ग, सी स्कोप, जयपुर।

—अग्रार्थीगण

रेफरेन्स अर्न्तगत धारा 10 औद्योगिक विवाद अधिनियम,
1947

उपस्थित :-

- (1) प्रार्थी प्रतिनिधि श्री ललित शर्मा उप.।
- (2) अग्रार्थी प्रतिनिधि श्री ओमसिंह सीनोवर प्रर्सनल मैनेजर उप.।

अवार्ड

दिनांक 12-06-2008

1. भारत सरकार ने अपनी अधिसूचना क्रमांक एल-12012/280/2003 (आई.आर.बी-1) दिनांक 22 अप्रैल, 2004 के तहत निम्न विवाद अर्न्तगत धारा 10 औद्योगिक विवाद, अधिनियम, 1947 इस न्यायालय को रेफर किया है।

“क्या नियोजक प्रबन्ध निदेशक दी बैंक ऑफ राजस्थान लि. केन्द्रीय कार्यालय, जयपुर एवं सहायक महाप्रबन्धक, दी बैंक ऑफ राजस्थान लि., क्षेत्रीय कार्यालय, जोधपुर द्वारा अपने कर्मकार श्री राम अवतार अग्रवाल निलम्बित मुख्य खजंची को निलम्बन काल में प्रस्तुत आवेदन पत्र दिनांक 8-4-2003 पर त्वौहार अग्रिम ऋण स्वीकृत नहीं किया जाना उचित एवं वैध है? यदि नहीं तो कर्मकार अपने नियोजक से क्या राहत पाने का अधिकारी है?”

2. उक्त रेफरेन्स इस न्यायालय में प्राप्त होने पर दिनांक 25-5-2004 को दर्ज रजिस्टर किया जाकर पक्षकारों को नोटिस जारी किये गये। प्रार्थी की ओर से मांग-पत्र प्रस्तुत किया जिसका अग्रार्थी की ओर से जवाब पेश किया तथा प्रार्थी ने मांग-पत्र के समर्थन में स्वयं का शपथ-पत्र प्रस्तुत किया तथा अग्रार्थी की ओर से ओमसिंह का शपथ-पत्र प्रस्तुत किया गया व यह पत्रावली वास्ते जिरह प्रार्थी हेतु नियत है। आज प्रार्थी की ओर से एक प्रार्थना-पत्र इस आशय का प्रस्तुत किया गया है कि उसको व अग्रार्थी बैंक के मध्य समझौता दिनांक 7-6-2008 को हो गया है अब उसका कोई विवाद शेष नहीं रहा है वह इस विवाद को लोक अदालत की भावना से आगे चलाना नहीं चाहता है। अतः इस प्रकरण में नो डिस्पयुट अवार्ड पारित किया जावे।

3. चूँकि प्रार्थी व अग्रार्थी के मध्य लोक अदालत की भावना से समझौता हो चुका है तथा प्रार्थी ने विवाद को समझौते के माध्यम से तय कर लिया है और उसका अग्रार्थी में किसी प्रकार का विवाद शेष नहीं रहा है अतः अब वह इस प्रकरण को आगे चलाना नहीं चाहता है फलस्वरूप इस प्रकरण में नो डिस्पयुट अवार्ड पारित किया जाता है।

4. इस अवार्ड को प्रकाशनार्थ भारत सरकार को प्रेषित किया जावे।

5. यह अवार्ड आज दिनांक 12-6-2008 को खुले न्यायालय में सुनाया गया।

पुष्पेन्द्र सिंह हाड़ा, न्यायाधीश

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2581.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वेस्टर्न रेलवे के प्रबंधन के संबंध में निर्यातकों और उनके कर्मचारियों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ सं. 08/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2008 को प्राप्त हुआ था।

[सं. एल-41012/221/1995-आई.आर. (बी-11)]

बी. के. मनचन्दा, अनुभाग अधिकारी

New Delhi, the 20th August, 2008

S.O. 2581.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 08/1997) of the Central Government Industrial Tribunal-cum-Labour Court Jaipur as shown in the Annexure, in the Industrial dispute between the management of Western Railway, and their workmen, received by the Central Government on 20-8-2008.

[No. L-41012/221/1995-IR(B-11)]

B. K. MANCHANDA, Section Officer

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 08/1997

रैफरेंस: केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-41012/221/95-आई. आर. (बी. 11) दिनांक 28-1-1997

श्री मणी शंकर शर्मा आत्मज श्री मात्स्यीराम जी शर्मा, मालियों की गली, लाल सिंह जी का डेरा, स्टेशन रोड, सीकर।

—प्रार्थी

बनाम

1. युनियन ऑफ इण्डिया जरिये जनरल मैनेजर, पश्चिमी रेलवे, चर्चगेट, बम्बई।

2. डिबीजनल रेलवे मैनेजर, पश्चिमी रेलवे, जयपुर।

3. वरिष्ठ मंडल यांत्रिक इंजीनियर (स्थापना) पश्चिमी रेलवे, जयपुर।

4. सहायक यांत्रिक इंजीनियर (प्रथम) पश्चिमी रेलवे, जयपुर।

—अग्रार्थीगण

उपस्थित

पीठासीन अधिकारी: श्री गौतम प्रकाश शर्मा, आर. एच. जे. एस.

प्रार्थी की ओर से : श्री सुरेन्द्र सिंह

अग्रार्थी की ओर से : श्री बी. एस. बरार

दिनांक : 30-5-2008

अवाई

1. भारत सरकार, के श्रम मंत्रालय, की आज्ञा क्रमांक 41012/221/95 दिनांक 28-1-97 से निम्न अनुसूची का विवाद "Whether the action of the management of Western Railway, Jaipur is justified in terminating the services of workman Shri Manishankar Sharma w.e.f. 18-5-94 (AN) after completing continuous service w.e.f. 16-10-82 to 18-5-94. If not to what relief the workman is entitled and from what date" अधिनिर्णय हेतु इस अधिकरण को प्राप्त हुआ है।

2. प्राथी श्रमिक की ओर से स्टेटमेंट ऑफ क्लेम पेश हुआ जिसके अनुसार तथ्य इस तरह से हैं कि प्राथी को कार्यालय आदेश दिनांक 14-10-82 से अस्थायी रूप से कैंरेज क्लीनर के पद पर वेतनमान 196-232 में नियुक्ति दी गई। उसे दिनांक 24-2-89 को चरिष्ठ क्लीनर के वेतनमान 775-1025 पर तदर्थ पदोन्नती दी गई। प्राथी के पिता मालीराम शर्मा अप्राथी रेलवे में इलैक्ट्रिक फिटर के पद पर कार्यरत थे जिन्हें दिनांक 31-12-82 से, उनके स्वास्थ्य के आधार पर अनुपयुक्त पाते हुए सेवा निवृत्त कर दिया जिसके संबंध में श्री मालीराम द्वारा केंद्रीय प्रशासनिक अधिकरण, जोधपुर बेंच में वाद पेश किया जो जयपुर बेंच को स्थानान्तरित कर दिया एवं उक्त वाद सं. 1546/46 का निर्णय श्री माली राम के पक्ष में हुआ। उक्त निर्णय को पश्चात् अप्राथी रेलवे प्रशासन ने रिव्यू याचिका सं. 21/89 पेश की जो खारिज हो गई। केंद्रीय प्रशासनिक अधिकरण ने अपने निर्णय से मालीराम को वैकल्पिक कार्य हेतु नियुक्ति देने के लिए निर्देशित किया जिसके आधार पर मालीराम को पुनः सेवा में लिया गया। आगे कथन किया कि प्राथी को सेवा इस आधार पर समाप्त की गई कि उसे मालीराम जो अस्वस्थ हो गये थे, के स्थान पर करुणा के आधार पर नियुक्ति दी गई एवं पुनः मालीराम पुनः सेवा में आ गये थे अतः प्राथी की सेवा समाप्त की गई। अपने क्लेम में आगे बताया कि नियुक्ति निवृत्ति के बाद प्राथी को अस्थायी रूप से हुई थी न कि उसके पिता के स्थान पर करुणामूलक आधार पर हुई। आगे बताया कि प्राथी को सेवा समाप्त के पूर्व कोई नोटिस अथवा एक माह का वेतन व छंटनी का मुआवजा नहीं दिया गया। प्राथी की सेवा अवैध व अनुचित रूप से समाप्त की गई है जिसे अवैध घोषित किया जावे एवं प्राथी को पुनः सेवा में लिया जावे।

3. कारण के जवाब में अप्राथी ने बताया किया कि प्राथी के पिता श्री मालीराम विद्युत फिटर के पद पर थे किन्तु उन्होंने अपना स्वास्थ्य खींच नहीं डाले थे एवं चिकित्सा के आधार पर 31-12-82 को सेवा निवृत्ति ले ली तथा उनके स्थान पर करुणामूलक आधार पर श्री मालीराम द्वारा अपने पुत्र प्राथी को नौकरी में रखने का निवेदन किया जो मालीराम अप्राथी पर स्वीकार किया गया। प्राथी को नियुक्ति के संबंध में कथित पद के लिए कोई विज्ञापन जारी नहीं किया गया न ही कोई अन्य आवेदन आमंत्रित किये गये बल्कि प्राथी को विज्ञापन तथा सेवा निवृत्ति के आधार पर करुणामूलक आधार पर उसके पिता के स्थान पर लिया गया जो पूर्णतः अकारण पिता के पद को नौकरी में रख लिया तब प्राथी की सेवा

कार्यालय आदेश प्रदर्श डब्ल्यू-4 के द्वारा सुना भी गया है। प्राथी को यह कथन कि उसकी नियुक्ति स्वतंत्र आधार पर की गई, भी नहीं माना गया एवं उसकी सेवा समाप्ति को उचित एवं वैध बताया हुए क्लेम खारिज होने योग्य बताया।

4. क्लेम के समर्थन में प्राथी ने स्वयं के बयान करवाये तथा अप्राथी की ओर से श्री जी. एन. मोगा के बयान करवाये गये। बहस सुनी, पत्रावली का अवलोकन किया।

5. प्राथी प्रतिनिधि ने अपनी बहस में वही आधार रखे हैं जो आधार क्लेम में लिये गये हैं एवं बताया कि करुणामूलक आधार के संबंध में अप्राथी की ओर से कोई वाक्ष्य पेश नहीं हुई है। वीसा कि अप्राथी ने अपने जवाब में बताया कि प्राथी के संबंध में उसके पिता द्वारा आवेदन प्रस्तुत किया, उक्त आवेदन प्रस्तुत नहीं हुआ है और न ही आदेश प्रदर्श डब्ल्यू-1 में इस आशय का उल्लेख है कि प्राथी को नियुक्ति करुणामूलक आधारों पर उसके पिता के स्थान पर दी गई है। उनकी बहस है कि प्राथी के पिता की ओर से जो वाद केंद्रीय प्रशासनिक अधिकरण में लाया गया वक्त वाद में अप्राथी की ओर से ऐसा कोई अभिवचन नहीं लिया गया है कि प्राथी का वाद चलने योग्य नहीं है क्योंकि प्राथी (माली राम) ने अपने स्वस्थ के आधार पर सेवा निवृत्ति ले ली थी एवं माली राम के आवेदन पर उसके पुत्र को करुणामूलक नियुक्ति दी गई हो। उनकी बहस है कि प्रशासनिक अधिकरण के निर्णय के संबंध में एक रिव्यू याचिका प्रस्तुत हुई, उक्त रिव्यू याचिका में अप्राथी की ओर से यह कथन किया गया कि श्री माली राम के स्थान पर उसके पुत्र को सेवा में लिया गया है अतः मूल निर्णय पर पुनः विचार किया जाये, लेकिन अप्राथी की ओर से पेश उक्त रिव्यू आवेदन को भी अस्वीकार कर दिया गया। इसमें भी यह आधार बताया कि अप्राथी ने माली राम द्वारा लिये गये वाद में इन तथ्यों का समावेश नहीं किया और नहीं करने का कोई कारण भी नहीं बताया। प्राथी प्रतिनिधि को आगे बहस है कि प्राथी की ओर से जो जवाब नोटिस प्रदर्श डब्ल्यू-4 का दिया उसमें भी अपनी नियुक्ति स्वतंत्र रूप से दिया जाना बताया। इस तरह से प्राथी प्रतिनिधि की बहस है कि प्राथी को जो भेद भुक्ति की गई है वह अनुचित व अवैध है व मनमाने तरीके से की गई है जिसे अपास्त किया जावे।

6. अप्राथी प्रतिनिधि ने अपनी बहस में बताया कि प्रदर्श डब्ल्यू-4 कारण बताओ नोटिस में प्राथी को जिन आधारों पर नियुक्ति दी गई उक्त कारण बताओ नोटिस में प्राथी को विज्ञापन प्रदर्श डब्ल्यू-1 में भी आमंत्रित थे परन्तु उन्होंने नहीं किया। प्राथी ने यह कथन कि उसे नियुक्ति करुणामूलक आधार पर दी गई थी किन्तु अन्य कोई कारण नहीं है। प्राथी की ओर से इस नियुक्ति के संबंध में अपने को-नया आवेदन दिया अथवा इस नियुक्ति को समाप्त कर दिया जायक नहीं, विज्ञापित किया तो उस विज्ञापन को जयपुर बेंच की गई है। उनकी बहस है कि बिना विज्ञापन के जयपुर बेंच प्राथी का इस तरह नियुक्ति देने का कोई कारण भी बताया नहीं गया। प्राथी को बताया गया कि अतः स्पष्ट है कि प्राथी को पिता के स्थान पर करुणामूलक आधार पर ही नियुक्ति दी गई है एवं उसके पिता का जय पुनः सेवा में ले लिया गया तब प्राथी की सेवा समाप्त की गई है। ऐसा करने का अधिकार

2004 (3) पेज 65(राजस्थान) सुनील सिंह चरण विरुद्ध सी.एम.डी अजमेर विद्युत वितरण निगम लि. अजमेर आदि पेश किया।

7. मैं बहस पर गौर किया। जहाँ तक मणी शंकर की नियुक्ति आदेश दिनांक 14-10-82 से हुई एवं उसकी सेवा समाप्ति के आदेश दिनांक 18-5-94 तक प्राथी मणी शंकर अप्राथी रेलवे में कार्यरत रहा तथा उसके पिता श्री माली राम को पुनः नियुक्ति केन्द्रीय प्रशासनिक अधिकरण के आदेश की अनुपालना में वैकल्पिक पद पर की गई, ये तथ्य विवाद रहित हैं। इस फैसले के निर्णय हेतु निम्न बिन्दु ही महत्वपूर्ण एवं तय करने हेतु हैं:-

1. क्या मणी शंकर की नियुक्ति उसके पिता के स्वास्थ्य सही नहीं होने से उसके पिता के स्थान पर करुणामूलक आधार पर की गई अथवा स्वतंत्र रूप से की गई ?

2. क्या जब माली राम को पुनः सेवा में ले लिया गया एवं उसके उपरान्त प्राथी श्री मणी शंकर को सेवा मुक्त कर दिया जाना उचित एवं वैध है ?

8. प्राथी की ओर से अपने स्टेटमेंट ऑफ क्लेम में कहा गया है कि उसकी नियुक्ति 14-10-82 को अस्थायी रूप से कैरेब क्लीनर के पद पर की गई थी। आदेश प्रदर्श डब्ल्यू-1 होना बताया। अपने क्लेम में प्राथी क्रमिक ने अपने पिता श्री माली राम संबंधी तथ्य भी प्रकट किये हैं। क्लेम में आगे बताया कि उसकी नियुक्ति उसके पिता के एवज में नहीं की गई बल्कि स्वतंत्र रूप से की गई है। यदि उसकी नियुक्ति उसके पिता के स्थान पर एवं करुणामूलक आधार पर की जाती तो जो याचिका उसके पिता की ओर से केन्द्रीय प्रशासनिक अधिकरण में दायर की गई उसमें अप्राथी यह तथ्य अवश्य प्रकट करते जबकि उक्त कार्यवाही में अप्राथी की ओर से इस संबंध में एक भी शब्द नहीं कहा गया है। फिर एक रिज्यू याचिका अप्राथी विभाग की ओर से पेश हुई जिसमें इस आधार पर केन्द्रीय प्रशासनिक अधिकरण को उनके आदेश को रिव्यू कराना चाहिए कि माली राम के स्थान पर उसके पुत्र को नियुक्ति दे दी गई है, अतः प्रशासनिक अधिकरण अपने निर्णय दिनांक 4-4-89 पर पुनर्विचार करे, उक्त रिज्यू पिटोशन भी अस्वीकार हुई है। प्राथी की ओर से स्वतंत्र रूप से नियुक्ति के संबंध में इस नियुक्ति हेतु कोई विशिष्ट अप्राथी की ओर से जारी हुई हो, नहीं दर्शाया गया है। इस पद हेतु प्राथी का कोई साक्षात्कार हुआ, उसकी तिथि आदि भी नहीं दर्शायी है। प्राथी ने इस पद हेतु आवेदन देना अपनी जिरह में स्वीकार किया है लेकिन उक्त आवेदन की कोई प्रति भी पेश नहीं हुई है। प्राथी ने अपनी जिरह में वैकेन्सी निकाली यह भी उल्लेख किया लेकिन उक्त वैकेन्सी के संबंध में कोई साक्ष्य पेश नहीं की है। अप्राथी का कथन, जैसा कि ऊपर वर्णित अनुसार रहा है कि प्राथी को नियुक्ति उसके पिता के स्थान पर करुणामूलक आधार पर दी गई थी, के संबंध में अप्राथी के नियुक्ति आदेश प्रदर्श डब्ल्यू-1 के क्रमांक में 'कॉम्प/मणीशंकर/ आदि का उल्लेख होने के आधार पर बताया है कि प्राथी को नियुक्ति कॉम्पनसेट ग्राउण्ड पर अर्थात् करुणामूलक आधार पर दी गई थी। यह अवश्य है कि अप्राथी की ओर से माली राम का कोई आवेदन कि उसके स्थान पर उसके पुत्र को नियुक्ति दे दी जावे, आदि पत्रावली पर नहीं है। इसी तरह से प्रदर्श डब्ल्यू-4 कारण बताओ नोटिस जो प्राथी को जारी

किया, उसमें सभी तथ्यों का उल्लेख हुआ है। पत्रावली पर उपलब्ध सामग्री से यह तथ्य भी सिद्ध होता है कि श्री माली राम पिता प्राथी जो कि स्वास्थ्य कारणों से जिस पद पर वे पदस्थापित थे, उस पद के कर्तव्य निर्वहन में अनफिट हो गये थे तथा केन्द्रीय प्रशासनिक अधिकरण ने भी श्री माली राम को स्वास्थ्य के आधार पर निकालने के एवज में वैकल्पिक नियुक्ति देने के आदेश दिये थे। अतः यह तथ्य सिद्ध है कि जिस पद पर माली राम थे वे उस पद के लिए स्वास्थ्य कारणों से उपयुक्त नहीं रहे थे।

9. उपरोक्त विवेचन अनुसार प्राथी की ओर से यह कथन कि उसकी नियुक्ति के संबंध में वैकेन्सी निकाली गई थी, उसने आवेदन किया था, किन्तु न तो विशिष्ट पेश हुई है न ही आवेदन की प्रति पेश हुई है। इसके विपरीत प्राथी के पिता का स्वास्थ्य खराब हो जाने से उन्हें पूर्व के पद पर उपयुक्त नहीं माना गया था यह तथ्य सिद्ध पाया गया है एवं प्राथी के नियुक्ति आदेश में शब्द 'कॉम्प' क्रमांक में अंकित है। इस प्रकार जो परिस्थितियाँ एवं साक्ष्य पत्रावली पर पाई गई हैं, उसे देखने से मैं पाता हूँ कि प्राथी की नियुक्ति उसके पिता माली राम के स्थान पर करुणामूलक आधार पर दी गई थी।

10. जब प्राथी के पिता को पुनः सेवा में ले लिया एवं प्राथी की नियुक्ति करुणामूलक आधार पर थी अतः प्राथी को शोर्कोज नोटिस प्रदर्श डब्ल्यू-4 देकर सुनवाई के बाद उसकी जो सेवा समाप्त की गई है, उक्त आदेश उचित एवं वैध है अथवा नहीं, अब इस बिन्दु पर देखना है। करुणामूलक नियुक्ति के संबंध में माननीय उच्चतम न्यायालय के निर्णय 2007 एल.एल.जे (एस.सी.) पेज 230 स्टेट बैंक ऑफ इण्डिया व अन्य विरुद्ध सोमवीर सिंह जिसमें माननीय उच्चतम न्यायालय के पूर्व निर्णय उमेश कुमार नागपाल विरुद्ध हरियाणा राज्य (1994) 4 एस.सी.सी. पेज 138 को उद्धृत करते हुए दृष्टान्त का निम्न विवेचन उद्धृत हुआ:

"As a rule, appointment in the public services should be made strictly on the basis of open invitations of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interest of justice and to meet some contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post held by the deceased."

11. इस विवेचन को देखने से कोई भी नियुक्ति जो सार्वजनिक पदों के लिए दी जाती है वह मात्र सभी से आवश्यक प्राप्त हुए गुणवर्ण पर ही दिये जाने का उल्लेख है अर्थात् सार्वजनिक नियुक्ति के संबंध में सार्वजनिक विचारित आवश्यक होना या अधिनियमपूर्ण द्वारा ही किये जाने का उल्लेख है, अन्य कोई व्यक्ति नियुक्ति को मान्य नहीं करता। लेकिन करुणामूलक नियुक्तियों उस नियम से अपवाद मानी गई है तथा इस विवेचन में करुणामूलक नियुक्ति को व किन कारणों से दी जायेगी, आदि का उल्लेख है, यह है। हस्तगत प्रकरण में श्री माली राम को पुनः सेवा में ले लिया गया है, इन हालात में प्रार्थी की नियुक्ति जो करुणामूलक आधार पर दी गई थी, उसे समाप्त कर दिया जाना सही रूप में सत्य व अविष नहीं कहा जा सकता। माली राम को पुनः नियुक्ति केन्द्रीय प्रशासनिक अधिकरण के निर्णय अनुसार दी गई। इसमें भी प्रार्थी जिसे कि नियुक्ति करुणामूलक आधार दी गई थी, अपने घर पर खड़े खड़े का कोई हक प्राप्त नहीं होता न ही इस संबंध में प्रार्थी को ओ से कोई दृष्टान्त भी पेश हुआ है। इसके विपरीत प्रतिनिधि अप्रार्थी को ओ से दृष्टान्त 2004(3) डब्ल्यू. एल.सी. (राजस्थान) 65 सुप्रीम मिद न्याय विरुद्ध सी.एम.डी. अजमेर विद्युत वितरण निगम लि. पेश किया, जो देखने से इस दृष्टान्त में प्रार्थी का नियुक्ति आनुपूर्विक आधार पर दी गई थी लेकिन जब पता चला कि उसका बड़ा भाई पहले से ही शिक्षा विभाग में सेवारत है एवं इस तथ्य का ज्ञान होने पर उसको सेवाएं समाप्त की गई जिसे माननीय उच्च न्यायालय ने सही माना है। हस्तगत प्रकरण में भी श्री माली राम को पुनः नियुक्ति मिली है। अपन नियुक्ति चाहें प्रशासनिक अधिकरण के आदेश से मिली या सार्वजनिक करुणामूलक नियुक्ति जो प्रार्थी को दी गई, उसे कसम उसका का प्रार्थी अब अधिकारी नहीं रह जाता एवं उसको जो सेवाएं इस आधार पर समाप्त की गई हैं वह सरे मत से उचित एवं वैध है। अतः रेफरेंस का उत्तर निम्न प्रकार दिया जाता है:

“पश्चिमी रेलवे, जयपुर के प्रवन्धन द्वारा श्री मणी शंकर शर्मा की सेवाएं दिनांक 16-10-82 से 18-5-94 तक लगातार सेवा में रहने के पश्चात् दिनांक 18-5-94 से समाप्त किया जाना उचित एवं वैध है। प्रार्थी कोई अप्रलोप पाने का अधिकारी नहीं है।”

7. अपाई आज दिनांक 30.5.2008 को खुले न्यायालय में लिखाया जाकर सुनाया गया जो केन्द्र सरकार का अवलम्बित निगमद्वारा भेजा जाये:

श्रीराम प्रकाश शर्मा, न्यायाधीश

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2582.- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में केन्द्रीय भूकम्प जयपुर भरतपुर ग्रामीण औद्योगिक बैंक के प्रबंधक के संरक्षित निदेशों और उनके कर्मचारियों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के रिकॉर्ड (संदर्भ नं. 14/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2008 को प्राप्त हुआ था।

[सं. प्रस. 130/2/232/1994-आई आर.बी. 3.]

श्री. के. मनचन्दा, अनुभाग अधिकारी

New Delhi, the 20th August, 2008

S.O. 2582.- In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 14/1996) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Alwar Bharatpur Gramin Anchalik Bank, and their workmen, received by the Central Government on 20-8-2008.

[No. 1-12012/232/1994-(Rd-3)]

B. K. MANCHANDA, Section Officer

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 14/96

रेफरेंस: केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-12012/232/94-आई. आर. (बी.) दिनांक 19-3-1996

श्री बांके बिहारी शर्मा गुप्त श्री अजय सुन्दर जति ब्राह्मण, गुग्गल बखना बय ब्रह्मण्ड भयनपुर (राज.)

प्रार्थी

वनाय

1. चंवरसैन, अल स भयनपुर ग्रामीण औद्योगिक बैंक, आर. पी. शर्मा की कोठी, कन्नी गुर्जर का चौराहा, भरतपुर।
2. ब्रांच मैनेजर, अजमेर भरतपुर ग्रामीण औद्योगिक बैंक, आर. पी. शर्मा की कोठी, कन्नी गुर्जर का चौराहा, भरतपुर।

- अप्रार्थीगण

उपस्थित

पीठासीन अधिकारी: श्री गौतम प्रकाश शर्मा, आर. एच. जे. एस. प्रार्थी की ओर से : श्री उममेद सिंह अप्रार्थी की ओर से : श्री अजय गुप्त

दिनांक अपाई 13-6-2008

अपाई

1. केन्द्र सरकार श्रम मंत्रालय, नई दिल्ली में उपरोक्त अधिसूचना के जरिये इस आधार का विवाद इस न्यायाधिकरण के अधिनियम हेतु निर्दिष्ट किया है कि Whether the action of the management of the Alwar Bharatpur Gramin Anchalik Bank,

Bharatpur is justified in terminating the services of Shri Banke Bihari Sharma w.e.f. 3-1-84? If not, to what relief the workman is entitled?"

2. प्रार्थी श्रमिक की ओर से स्टेटमेंट ऑफ क्लेम पेश किया गया जिसके संक्षेप में तथ्य इस प्रकार हैं कि प्रार्थी, अप्रार्थीगण के यहां जनवरी 1983 से 20-2-84 तक दैनिक वेतन भोगी कर्मचारी के रूप में अटलबंद शाखा भरतपुर में कार्यरत रहा। अप्रार्थीगण ने गलत रूप से प्रार्थी को सेवा मुक्त कर दिया जिसके विरुद्ध प्रार्थी ने राजस्थान उच्च न्यायालय, जयपुर में एक रिट याचिका सं. 3156/89 प्रस्तुत की जिसे दिनांक 24-1-91 को प्रार्थी ने इस अधिकरण के समक्ष विवाद पेश करने की अनुमति के साथ विधद्वा कर लिया जिस पर यह विवाद इस अधिकरण में पेश हुआ। प्रार्थी ने अपने सेवा मुक्ति आदेश को इन आधारों पर चुनौती दी है कि प्रार्थी ने जनवरी 1983 से 20-2-94 तक अप्रार्थी के यहां लगातार कुछ कृत्रिम गैप सहित कार्य किया है, उसकी नियुक्ति स्थाई पद की विरुद्ध श्री साहब सिंह के नौकरी छोड़ देने के कारण रिक्त पद पर हुई थी और उससे चतुर्थ श्रेणी कर्मचारी की सेवाएं ली जाती थी, प्रार्थी को वाउचर्स के जरिये 9/ रुपये प्रतिदिन के हिसाब से भुगतान किया जाता था व उसने 6 माह तक लगातार कार्य किया है उसके बाद उसे एक-एक दो-दो दिन का कृत्रिम गैप देकर भुगतान किया गया है। अप्रार्थी के यहां अब भी कार्य मौजूद है और प्रार्थी को हटाकर श्री देवी राम को कार्य पर लगाया है जो अनुचित, अवैध व अनफेयर लेबर प्रेक्टिस है। प्रार्थी का कथन है कि उपरोक्त आधारों पर प्रार्थी को सेवा मुक्ति अनुचित व अवैध है तथा औद्योगिक विवाद अधिनियम 1947 (जो निर्णय में आगे मात्र अधिनियम लिखा जायेगा) की धारा 25-एच के साथ-साथ नियम 78 औद्योगिक विवाद केन्द्रीय नियम 1957 का भी स्पष्ट उल्लंघन है। प्रार्थी का कथन है कि श्री देवी राम को उसके बाद सेवा में लिया जाकर उसे स्थाई भी कर दिया है जबकि उससे पहले प्रार्थी को कोई काम पर आने की सूचना नहीं दी अतः प्रार्थी की कि उसकी सेवा मुक्ति अनुचित व अवैध घोषित की जाकर उसे पुनः सेवा में स्थाई नियुक्ति प्रदान की जावे।

3. अप्रार्थी ने क्लेम का जवाब पेश कर बताया कि प्रार्थी ने जो रिट याचिका माननीय उच्च न्यायालय में पेश की थी उसकी संख्या 3150/89 थी न कि 3156/89 तथा उसमें प्रार्थी ने अपनी नियुक्ति तिथि जनवरी, 1982 बताई है जबकि वर्तमान क्लेम में जनवरी 1993 में दैनिक वेतन भोगी के रूप में काम पर लेना बताया है। अप्रार्थी ने जवाब में आगे बताया कि प्रार्थी को विपक्षी सं. 2 द्वारा जनवरी 1983 से 2 जनवरी 1984 के मध्य कभी कभी पानी पिलाने व सफाई आदि के कार्य के लिए दैनिक मजदूरी पर रखा गया। प्रार्थी को न तो स्थाई पद की विरुद्ध नौकरी पर रखा न ही साहब सिंह को स्थाई पद की विरुद्ध नौकरी पर रखा। साहब सिंह भी विपक्षी सं. 2 शाखा में पानी पिलाने व सफाई आदि का कार्य करता था और साहब सिंह के नहीं आने पर कभी कभार प्रार्थी से वही कार्य कराया जाकर उसे उस दिन की दैनिक मजदूरी दे दी जाती थी। प्रार्थी द्वारा फरवरी 1984 में कोई कार्य नहीं किया गया बल्कि जनवरी 1983 से जनवरी 1984 तक कभी

कभी कुल मिलाकर 69 दिवस कार्य किया गया जिसका भुगतान उसे समय समय पर दे दिया गया। 2 जनवरी 1984 के बाद प्रार्थी ने अप्रार्थी के यहां कोई कार्य नहीं किया है क्योंकि उसके बाद वह स्वयं ही कभी काम पर नहीं आया और वह बैंक का कोई कर्मचारी नहीं था अतः उसे सेवा पृथक् करने का प्रश्न ही पैदा नहीं होता। प्रार्थी के नहीं आने पर कभी-कभी देवीराम से व साहब सिंह से काम ले लिया जाता था। काफी वर्षों के बाद उक्त कार्य हेतु पद सूचित हुआ तब नियमानुसार देवीराम को स्थाई पद पर नियुक्ति की गई जो अनुचित व अवैध नहीं कही जा सकती। प्रार्थी 2-1-84 के बाद स्वयं ही काम पर नहीं आया अतः देवीराम से तात्कालिक आवश्यकता पूर्ति हेतु काम लिया गया, इन हालात में अधिनियम के प्रावधान लागू नहीं होते न ही नियम 78 की कोई उल्लंघना हुई है। अतः क्लेम खारिज होने योग्य बताया।

4. बहस सुनी, पत्रावली का अवलोकन किया। प्रार्थी प्रतिनिधि की बहस है कि प्रार्थी की नियुक्ति जनवरी, 1983 से 20-2-84 तक अप्रार्थी बैंक में दैनिक वेतन भोगी कर्मचारी के रूप में रही। प्रार्थी को सेवा से पृथक् करने के संबंध में प्रार्थी के द्वारा एक रिट याचिका माननीय उच्च न्यायालय जयपुर के समक्ष पेश की जो याचिका सं. एकल पीठ 5156/89 दर्ज हुई जिसे 24-1-91 को इस अधिकरण में चलने की अनुमति के साथ विधद्वा किया गया। उनकी बहस है कि सेवा समाप्ति के पूर्व प्रार्थी ने अप्रार्थी बैंक में लगातार 6 माह तक कार्य किया तथा उसके पश्चात 6 माह की अवधि में एक-एक दो-दो दिन का कृत्रिम गैप देकर भुगतान किया गया। आगे बहस की कि प्रार्थी की सेवा समाप्ति के बाद अप्रार्थीगण के लिए आवश्यक था कि वे किसी अन्य व्यक्ति को सेवा में लेने से पहले प्रार्थी को पुनः नियुक्ति का अवसर देते जबकि श्री देवीराम को कार्य पर लिया और उसे बाद में स्थाई भी कर दिया जबकि देवीराम को कार्य पर लेने से पूर्व प्रार्थी को सेवा का अवसर नहीं दिया। उनकी बहस है कि प्रार्थी स्वयं परीक्षित हुआ है व उसने अपना कथन सिद्ध किया है।

5. अप्रार्थी प्रतिनिधि ने अपनी बहस में बताया कि रिट याचिका दिनांक 24-1-91 को विधद्वा कर ली, उक्त याचिका इस आवेदन के साथ विधद्वा की गई हो कि वह अधिकरण में पेश करना चाहता है, संबंधी कोई आदेश नहीं हुए हैं। इसके अतिरिक्त प्रार्थी को दैनिक मजदूरी पर आवश्यकता अनुसार कार्य पर बुलाया गया था एवं प्रार्थी ने कुल मिलाकर 69 दिन अप्रार्थी बैंक में कार्य किया है। प्रार्थी को कोई नियुक्ति आदेश नहीं दिया गया था जब जब आवश्यकता हुई बुलाया गया अतः उसे सेवा से पृथक् करने का प्रश्न ही उत्पन्न नहीं होता। देवीराम को जो नियुक्ति दी गई वह नियुक्ति उचित आधार पर दी गई थी जबकि प्रार्थी ने तो पहले से ही कार्य पर आना बंद कर दिया था एवं दिनांक 2-1-94 से काम पर नहीं आया तथा वह अपनी इच्छा से कहीं चला गया था। अतः अप्रार्थीगण ने धारा 25-एच का उल्लंघन किया हो, नहीं पाया गया है। उनकी आगे बहस है कि सेवा समाप्ति दिनांक 3-1-84 के बाद वर्ष 19-3-96 को यह रैफरेंस लाया गया है जो 12 वर्ष देरी है एवं प्रार्थी का यह कथन भी मान लिया जाये कि

उसने रिट याचिका पेश की तो वह भी दिनांक 24-1-91 को विरुद्ध कर ली थी तब भी 6 वर्ष देरीना विवाद प्रस्तुत हुआ है तथा इस देरी का कोई कारण नहीं दर्शाया है। उनको यह भी बटस है कि प्राथी ने अपने स्टेटमेंट ऑफ क्लेम में दिनांक 20-2-84 तक कार्य करना बताया है जबकि रैफरेंस में सेवा समाप्ति की तारीख 3-1-84 है, इस संबंध में प्राथी की ओर से संशोधन भी करवाना चाहें एवं आवेदन भी पेश हुआ किन्तु उक्त आवेदन पर कोई कार्यवाही नहीं हुई है जिससे भी प्राथी का क्लेम स्वीकार होने योग्य नहीं है। अतः प्राथी का क्लेम अस्वीकार होने योग्य बताया।

6. मैने बटस पर गौर किया। प्राथी व अप्राथी की ओर से दायर आई उसका भी अध्ययन किया।

7. प्राथी ने साक्ष्य के रूप में स्वयं का शपथ पत्र पेश किया बताया कि उसने रिट याचिका पेश की जो वापस ले ली जिसके आदेश प्रदर्शनी होना बताया लेकिन उक्त आदेश पत्रावली पर उपलब्ध नहीं है। अपने शपथ पत्र में उसकी सेवा समाप्ति के बाद देवीराम को कार्य पर लिया गया, नहीं बताया है। इसके विपरीत अप्राथी की ओर से मी. आर. पोखवाल परीक्षित हुए हैं जिन्होंने प्राथी के संबंध में बताया कि उसने जनवरी 1983 में जनवरी 1984 तक 72 दिन ही कार्य किया। प्राथी ने स्वयं ही काम पर आना बंद कर दिया। उसके काफी वर्षों बाद एक नया गद सृजित हुआ जिस पर देवीराम की नियुक्ति निदोषताम किये जाने का उल्लेख किया है। इस गवाह में जिरह में प्राथी ने एक वर्ष में 240 दिन कार्य किया, के संबंध में सुझाव दिया जिस संबंध में गवाह का कथन रहा है कि प्राथी ने मात्र 60 दिन ही कार्य किया था तथा देवीराम की नियुक्ति उनकी याददाश्त के अनुसार जुलाई, 1987 में होनी चाहते। अप्राथीगण ने भाग 25 एच का उल्लंघन किया है इस दायित्व को निभाने का भार प्राथी पर था। प्राथी ने अपने कथनों या अभिवक्तियों में देवीराम को कार्य नियुक्ति दी, ऐसा उल्लेख नहीं किया है। इसके विपरीत अप्राथीगण ने अपने कथनों में प्राथी के नहीं आने पर काफी अरों बार काम पर लिये जाने का उल्लेख किया है। प्रकरण में प्राथी ने 240 दिन कार्य किया ही, ऐसी कोई साक्ष्य नहीं आई है जबकि अप्राथी गवाह को ऐसा सुझाव दिया गया था। प्राथी को फरवरी, 1984 से कार्य पर लेना बंद कर दिया जिसका यह रैफरेंस वर्ष 1996 में लाया गया है इसमें पूर्व माननीय राजस्थान उच्च न्यायालय में एक याचिका पेश करने का बताया एवं उसे विरुद्ध कर लिया, इस संबंध में कोई आदेश भी पेश नहीं हुए हैं एवं वर्ष 1998 में रिट याचिका को विरुद्ध किया जाना दर्शाया है उसके बाद भी तीन वर्ष बाद यह रैफरेंस लाया गया है जो देरीना है एवं इस देरी का कोई कारण नहीं दर्शाया गया है। इस सारे विवेचन से भी पता है कि प्रकरण में भाग 25 एच अधिनियम का उल्लंघन होना प्राथी की ओर से सिद्ध नहीं हुआ है तथा रैफरेंस उपरोक्तानुसार देरी से पाया गया, उक्त देरी का भी कोई विरुद्धसनीय कारण नहीं दर्शाया गया है।

8. प्रकरण में पक्षकारों की ओर से दृष्टान्त पेश हुए, प्राथी की ओर से पेश दृष्टान्त एस. जी. सिविल रिट याचिका में, 6/11/98 निर्णय दिनांक 4-11-98, में श्री न्यायालय द्वारा प्राथी की सेवा कांय

को अनुचित एवं अवैध माना लें एवं उसे पुनः नियोजन का अधिकार नहीं मानते हुए 10,000 रुपये दायित्व दिलाने के आदेश दिए। उक्त आदेश को उपास्त करते हुए माननीय उच्च न्यायालय ने दृष्टान्त के प्राथी को पुनः सेवा में नियोजन करने का आदेश दिया। दृष्टान्त डब्ल्यू. एल. सी. (राज.) 1992 (3) में भाग 25 जो व 25-गघ को उल्लंघन माना तथा यह भी माना कि दृष्टान्त के प्राथी की सेवा समाप्ति के बाद उससे कनिष्ठ 2 वर्षीयता की सेवा कायम रखी तथा दो और को सेवा में लिया गया। हरमन प्रकरण में प्राथी की सेवा वर्ष 1984 में समाप्त किये जाने का तथ्य चारा गया है तथा दायित्व का उसके तुरंत बाद सेवा में लिया ही, ऐसा नहीं पाया गया है बीकर, अप्राथी को गवाह के अनुसार वर्ष 1987 में देवीराम को लिया गया था अतः यह दृष्टान्त भी प्राथी को कोई भरोसा नहीं करता। दृष्टान्त आर. एल. आर. 2000 (3) पेज 447 स्पष्ट रूप से कार्यस्थान को विरुद्ध रामचन्द्र श्रृंगी के मामले में अप्राथी विवाद द्वारा कोई अवसर लिये जाने के बाद भी जो रिकार्ड प्राथी द्वारा भेजा गया, पेश नहीं किया गया अतः विभाग के विरुद्ध प्रतिकूल अवधारणा ली गई किन्तु अध्ययन प्रकरण में ऐसा कोई रिकार्ड मांगा गया कि वह पेश नहीं किया गया हो, नहीं पाया गया है। दृष्टान्त आर. एल. आर. 1995 (3) (राजस्थान) पेज 209 राजस्थान राज्य विरुद्ध जयराज मेहता जी, डब्ल्यू. सी. एम.आई.ए. युनियन गंगालकर सिटी, इस मामले में 2000 दिन सिद्ध करने का भार नियोक्ता पर माना गया लेकिन अध्ययन प्रकरण में स्वयं प्राथी का जो कथन नहीं है कि उसने 240 दिन कार्य किया है। इसके अतिरिक्त नवीनतम विधि विविवाद रूप में यह है कि काम के 240 दिन कार्य किया इस तथ्य की श्रमिक ही भरोसा करने। दृष्टान्त एल. एल. आर. 1994 (राज.) पेज 539 में देरी के संबंध में माननीय राजस्थान उच्च न्यायालय द्वारा पारित दृष्टान्त पत्रावली माना गया कि जिला न्यायालय दृष्टान्त जो माननीय राजस्थान उच्च न्यायालय व माननीय उच्च न्यायालय द्वारा पारित किये गए हैं रैफरेंस लिये जाने के संबंध में जो देरी हुई है उसपर स्पष्टीकरण प्राथी द्वारा दिया जाना आवश्यक माना है। इस संबंध में प्राथी की ओर से पेश दृष्टान्त (2000) 2 एच. सी. पी. पेज 455 नैदनगढ़ी बैंक लि. विरुद्ध न. ए. माधवनकुट्टी पेश किया जिसके अनुसार 7 वर्ष बाद जो विचार उठाया गया था, उक्त देरी का भी क्लेम स्वीकार नहीं करने का अर्थ माना गया है।

9. उपरोक्त सारे विवेचन से भी पता है कि प्राथी का क्लेम स्वीकार होने योग्य नहीं है अतः याचिका का अन्य निम्न प्रकार रिया जाता है :

“अतएव भरतपुर ग्रामीण परिवहन सेवा भरतपुर को प्रत्यक्ष द्वारा श्री बांके विहागे शर्मा को नौकरी नियुक्त 3-1-1984 में समाप्त किये जाना उचित एवं वैध है। कोई कोई प्रत्यक्ष का अधिकार नहीं है।”

5. अटार्ड आज दिनांक 13-9-2008 को सुनने न्यायालय में लिखा जाकर सुनाया गया कि क्लेम का रूप को प्रकाशित निम्नानुसार भेजा जाये।

कोनरा प्रकाश शर्मा न्यायाधीश

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2583.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ऑफिसर कमाण्डेन्ट 27 कम्पनी ए.एस.सी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ सं. 115/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2008 को प्राप्त हुआ था।

[सं एल-13012/14/98-आईआर(डीयू)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 20th August, 2008

S.O. 2583.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. 115/99) of the Central Government Industrial Tribunal-cum-Labour Court No.1, Chandigarh as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Officer Commandant 27 Company ASC, and their workmen, which was received by the Central Government on 20-8-2008.

[No. L-13012/14/98-IR(DU)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE SHRIGYANENDRAKUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH.**

Case No. I.D. 115/99

Sh. Suraj Parkash S/o Sh. Kishan Lal R/o 326, B.C. Bazar (Haryana), Ambala Cantt (Haryana)-133001

...Applicant

Versus

The Officer Comandant, 27 Company, ASC (Supply), Type-F, Ambala Cantt. (Haryana) -133001

...Respondent

APPEARANCES

For the workman : Workman in person

For the management : Shri J.S. Bisht

AWARD

Passed on 8-8-2008

Central Government vide notification No.L- 13012/14/98-IR(DU) dated 26-4-1999, has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the Officer Commandant 27

Company ASC, Ambala Cantt. in terminating the services of Sh. Suraj Parkash S/o Sh. Kishan Lal is legal and justified? If not, to what relief the workman is entitled?”

The present reference was made by the Central Government on the failure of conciliation proceedings for adjudication of the matter referred in the schedule referred above and the workman prayed for declaring the action of the management as illegal and invalid and for reinstatement in service with full backwages and all consequential benefits in the interest of justice, equity and fair play.

The management turned up and opposes this application.

As per office memorandum dated 30-4-08, this case was fixed in pre Lok Adalat meeting 8-8-2008 for its disposal by adopting the mediation and conciliation mechanism. With the efforts of the Tribunal, the workman agreed to withdraw his reference. The management also agreed to pay Rs.2000/- to the workman as full and final settlement towards each and every claim of the workman if he withdraw his reference in Lok Adalat subject to the approval of the Government. The workman made a statement that he is ready to accept Rs. 2000/- towards retrenchment compensation and other legal expenses etc. in full and final settlement of his claim. The prescribed authority of the management and the workman during the hearing of this case in pre Lok Adalat agreed upon the abovementioned terms and conditions. It is proposed to dispose off this reference in Lok Adalat. Accordingly the reference is returned to the Central Government as settled in Lok Adalat. Central Government be informed. File be consigned to record.

Chandigarh

8-8-2008

G. K. SHARMA, Presiding Officer

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2584.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.बी. एम.बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ सं. 79/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2008 को प्राप्त हुआ था।

[सं एल-42012/47/93-आई आर(डी यू)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 20th August, 2008

S.O. 2584.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. 79/94) of the Central Government Industrial Tribunal-cum-Labour

Court, No. 1, Chandigarh as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of B.B.M.B., and their workmen, which was received by the Central Government on 20-8-2008.

[No.L-42012/47/93-IR(DU)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH.**

Case No I.D. 79/94

The Chairman, Nangal Bhakra Majdoor Sangh, Quarter No.35-G, Nangal Township, Punjab 140124.

... Applicant

Versus

The Chief Engineer, Bhakra Dam, Bhakra Beas Management Board, Nangal Township, Distt. Rupar (Pb.)

... Respondent

APPEARANCES

For the workman: Sri R.K. Singh

For the management: Sri Bhagat Singh

AWARD

Passed on 07-8-2008

Central Government vide notification no. 42012/47/93, IR (DU) dated 11-8-94 referred the following industrial dispute for judicial adjudication:

"Whether the workman Shri Raj Kumar on reappointment is entitled for protection of his pay last drawn before retrenchment and if not to what other relief is he entitled to?"

On careful scrutiny of the pleadings of both of the parties, it is evident that the workman Shri Raj Kumar was firstly appointed as Store-Clerk under the Bhakra Dam Administration w.e.f. 30-8-65 in the work charged capacity and was retrenched on 30-6-69. Thereafter, he was employed at Beas-Satluj Link Project, Sundarnagar Distt. Mandi Himachal Pradesh w.e.f. 11-7-69 in the work charged capacity and his pay was protected on re-employment. He remained employed with the Satluj Link Project, Sundarnagar till 12-7-79. He was again re-employed by the BSI, Project w.e.f. 8-5-81 with the protection of his salary and was finally retrenched on 30-3-84. He was again re-employed on 15-3-90 as Store-Clerk with the initial pay-scale without the protection of salary of his previous work. Hence, this industrial dispute. The workman has claimed that on every re-employment his salary was protected but

on 15-3-90 while he was re-employed as Store-Clerk his salary was not protected which is against the own circular letter of the management no. 525961/BBMB/1717/46 dated 13-7-76.

The management filed this written statement alleging that it was a fresh appointment of the workman on 15-3-90 in compliance of the terms of the settlement in between the workman and the management on 2-3-90, before the Regional Labour Commissioner(C), Chandigarh. Regarding the circular letter dated 13-7-76, the management has stated that this circular letter is applicable on those workmen who have been re-employed on daily wages basis and not on the workmen who has been appointed against the permanent vacancy.

I have heard learned counsels for the parties workman in person and perused all the materials on record. The settlement dated 2-3-90 on the basis of which the workman was re-employed on 15-3-90 is on record. As per the terms of the settlement the management agreed to offer fresh appointment to workman Shri Raj Kumar for the post of Store-Clerk(BBMB, regular), in Nangal workmanship region, at Nangal, within a period of one week from 2-3-90 subject to medical fitness. It was also agreed upon that the workman Shri Raj Kumar will not claim back wages for the period he was unemployed. It was also further agreed upon that in case of any doubt about interpretation of any term, the decision of Regional Labour Commissioner (C), Chandigarh shall be final.

From the terms of settlement it is clear that it was a fresh appointment against a regular vacancy of the workman Shri Raj Kumar and the circular letter which he mentioned in his settlement of claim is relating to the employees who have been appointed on daily wages basis. The further letter explaining the circumstances under which the circular letter dated 13-5-76 was passed is also on record. This letter dated 26-7-89, make it clear that the instructions issued vide letter dated 13-5-76 were applicable only in respect of retrenched work charged employees on their reappointment in work-charged capacity. It is true that the workman Raj Kumar was retrenched workmen but his reappointment was not in work charged capacity. He was appointed on regular post in compliance of the settlement dated 2-3-90.

In term No.1 of the settlement the word "fresh appointment" is written and it is acceptable to both of the parties. The term "fresh appointment" means that the appointment has no concern with the previous appointments. In term No 2, the workman Shri Raj Kumar specifically agreed that he will not claim any back wages. Thus, on the basis of the terms of the settlement dated 2-3-90 between the workman, Shri Raj Kumar and the management and on the basis of the letter no. 2626370/PID/1061/88/85, dated 26-7-89, it is clear that the workman is not entitled for the protection of pay-scale in any form. Moreover, the term No. 4 of the settlement also bars the

jurisdiction of any adjudicatory authority except the Regional Labour Commissioner(C), Chandigarh. On the basis of the above observation, I am of the view that the workman is not entitled for the protection of pay as prayed and the reference is accordingly answered that the workman Shri Raj Kumar on re-appointment is not entitled for protection of his pay last drawn before retrenchment and is not entitled for any other relief. Let the Government be informed. File is to be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2585 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ सं. 215/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2008 को प्राप्त हुआ था।

[सं. एल-40012/19/2000-आई आर (डी यू)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 20th August, 2008

S.O. 2585 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the Award (Ref. No. 215/2000) of the Central Government Industrial Tribunal-cum-Labour Court, No.1 Chandigarh as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Department of Telecom, and their workman, which was received by the Central Government on 20-8-2008.

[No. L-40012/19/2000-IR (DU)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT. INDUS-
TRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH.**

Case No I. D. 215/2000

Miss. Ranjodh Kaur C/o Sh. N.K. Jeet, President, Telecom Labour Union, N—Mohalla Hari Nagar, Lal Singh Basti Road, Bhatinda (Punjab)-151005

... Applicant

Versus

The General Manager, Deptt. of Telecom, Hoshiarpur

... Respondent

APPEARANCES

For the workman : Workman in person

For the management : Sh. Dharam Pal

AWARD

Passed on 8-8-2008

Central Government vide notification No. L-40012/19/2000 IR (DU), dated 29-5-2000 has referred the following dispute to this Tribunal for adjudication:

“Whether the action of the General Manager, Telecom, Hoshiarpur(Pb) in ordering disengagement/termination of services of miss Ranjodh Kaur a workman engaged through contractor Sh. Ashok Kumar Sharma, w.e.f. 1-5-99 is legal and justified? If not, to what relief the workman is entitled and from which date?

The present reference was made by the Central Government on the failure of conciliation proceedings for adjudication of the matter referred in the schedule referred above and the workman prayed for declaring the action of the management as illegal and invalid and for reinstatement in service with full backwages and all consequential benefits in the interest of justice, equity and fair play.

The management turned up and opposes this application.

As per office memorandum dated 30-4-08, this case was fixed in pre lok adalat meeting on 8-8-2008 for its disposal by adopting the mediation and conciliation mechanism. With the efforts of the Tribunal, the workman agreed to withdraw her reference. The management also agreed to undertake to ensure that the workman will get wages as per DC rates and the payment shall be made in the presence of the management and also undertake to pursue that her services to continue through contractor. The prescribed authority also ensure that whenever there will be the regular appointment in the department, she will be given full opportunity as per rules and regulations of the department. The prescribed authority of the management and the workman during the hearing of this case in pre lok adalat agreed upon the above mentioned terms and conditions. . It is proposed to dispose off this reference in Lok Adalat. Accordingly the reference is returned to the Central Government as settled in Lok Adalat. Central government be informed. File be consigned to record.

Announced
8-8-2008

G. K. SHARMA, Presiding Officer

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2586 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट

(संदर्भ सं. 5/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2008 को प्राप्त हुआ था।

[सं. एल-40012/78/2004-आई.आर.(डी.यू.)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 20th August, 2008

S.O. 2586 /-In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. 5/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No.1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Department of Telecom, and their workman, which was received by the Central Government on 20-8-2008.

[No.1-40012/78/2004-IR(DU)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

Before Shri Gyanendra Kumar Sharma, Presiding
Officer, Central Government Industrial Tribunal-cum-
Labour Court-1, Chandigarh.

Case No LD 3 2005

Sh. Sukhpal Singh Son of Shri Ekam Singh, C/o Shri N. K. Jee, House No. 27349, Mohalla Hari Nagar, Lal Singh Basti Road, Dharwad-Punjab

... Applicant

Versus

The General Manger, Telecom, BSNL, E-10 B Building,
Behind HPO, Bhatinda (Punjab)

... Respondent

APPEARANCES

For the workman : None

For the management : Sh. Anish Babbar,

AWARD

passed on 7-8-2008

Central Govt. vide notification No.L- 40012/78/2004-IR (DU) dated 9th December, 2004 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Telecom (BSNL) in terminating the services of Shri sukhpal singh, Ex-Driver, w.e.f. 1-3-99 without complying with the provisions of the I.D. Act is just and legal? If not, to what relief the concerned workman is entitled to and from which date?"

2. No one is present, on behalf of the workman

Learned representative of the management Shri Anish Babbar is present. Since morning this reference has been called number of times. At 10.45 a.m. it was ordered to be placed before this Tribunal once again at 2 pm. It is 2.30 now and on repeated calls no one is present. In spite of having

of full knowledge of the proceedings of this reference. The reference is as old as referred to this Tribunal in the year 2005. On repeated calls since morning no one is present. Accordingly, the reference is dismissed in default for non-prosecution. Central Government be informed accordingly. File to be consigned

Chandigarh C.K. SHARMA, Presiding Officer
7-8-08

नई दिल्ली, 20 अगस्त, 2008

का. आ. 2587 /- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी.पी. डब्ल्यू.डी. के प्रबंधकों के संघर्ष कार्यकर्ता और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय औद्योगिक अधिकरण जयपुर के पंचाट (संदर्भ सं. . .) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2008 को प्राप्त हुआ था

[सं. एल-42012/19/1995-आई.आर.(डी.यू.)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 20th August, 2008

S.O. 2587 /-In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award of the Central Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of C.P.W.D., and their workman, which was received by the Central Government on 20-8-2008.

[No.1-42012/19/1995-IR(DU)]
AJAY KUMAR GAUR, Desk Officer

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी, आई. टी. 23/1996

रैफरेंस: केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-42012/19/95-आई.आर.(डी.यू.) दिनांक 24-12-1996

श्री योकर राम पुत्र श्री दुर्गाशम मोल गांव थापन तहसील मिवता जिला वाइसेरा ।

प्रार्थी

व्यवस्था

कार्यकारी अभियन्ता बी.एफ.आर. सी.पी. डब्ल्यू. डी जैसलमेर (राजस्थान) ।

अप्रार्थी

उपस्थित

पीठासीन अधिकारी: श्री गौतम प्रकाश शर्मा, आर. एच. जे. एस.

प्राथी की ओर से : श्री जे. एल. शाह

अप्राथी की ओर से : श्री आर. के. जैन

अवार्ड

दिनांक अवार्ड : 28-5-2008

1. भारत सरकार के श्रम मंत्रालय की आज्ञा क्रमांक 42012/19/95 दिनांक 24-4-96 से निम्न अनुसूची का विवाद "Whether the action of the management of CPWD in terminating the services of Shri Pokar Ram Bheel is proper and legal and justified if not, to what relief the workman is entitled to" अधिनियम हेतु इस अधिकरण को प्राप्त हुआ है।

2. प्राथी श्रमिक की ओर से स्टेटमेंट ऑफ क्लेम पेश हुआ जिसके अनुसार प्राथी का कथन है कि उसकी नियुक्ति दिनांक 11-11-91 को विपक्षी संस्थान में बीकानेर में बेलदार के पद पर हुई थी, नियुक्ति तिथि से वह लगातार कार्य पर जा रहा था व उसका कार्य संतोषप्रद था। कार्यकारी अभियन्ता बी.एफ.आर.सी.पी.डब्ल्यू.डी ने अपने मौखिक आदेश द्वारा प्राथी को दिनांक 23-3-93 से सेवा मुक्त कर दिया। आगे वर्णित किया कि प्राथी की सेवा मुक्ति के बाद विपक्षी संस्थान के बीकानेर कार्यालय को संपस्त कर्मचारियों के साथ जैसलमेर स्थानान्तरित कर दिया। प्राथी ने अपने एक वर्ष की सेवा में 240 दिन से अधिक कार्य किया अतः औद्योगिक विवाद अधिनियम 1947 (जो निर्णय में आगे मात्र अधिनियम कहलायेगा) के अन्तर्गत वह श्रमिक की परिभाषा में आता है तथा विपक्षी संस्थान पर अधिनियम के प्रावधान लागू होते हैं। प्राथी को सेवा मुक्ति का कोई कारण नहीं बताया व न ही उसे कोई लिखित में आदेश दिया गया। उसे सेवा मुक्ति के पूर्व एक माह का नोटिस अथवा उसके एवज में एक माह का वेतन नहीं दिया न ही छुट्टी का मुआवजा दिया गया। प्राथी सेवा मुक्ति के बाद भी बीकानेर में ड्यूटी पर उपस्थित होता रहा एवं विपक्षी उसे सेवा में लेने के आश्वासन देते रहे किन्तु उसे सेवा में नहीं लिया गया। जब कार्यालय जैसलमेर स्थानान्तरित हो गया तो वहाँ भी कई बार वह गया और सेवा में लेने का निवेदन करता रहा लेकिन उसे सेवा में नहीं लिया गया। सेवा मुक्ति को अनुचित, अवैध, बदनियतिपूर्ण व प्राकृतिक न्याय के सिद्धांतों के विपरीत अपने क्लेम के चरण सं. 8 के उप चरण "अ" से "ऊ" में उल्लिखित अनुसार बताया है एवं निवेदन किया कि प्राथी की सेवा मुक्ति को अनुचित व अवैध घोषित करते हुए उसे सेवा में बहाल किया जावे व संपस्त लाभ दिलाये जायें।

3. अपने जवाब में अप्राथी ने अंकित किया कि प्रार्थना पत्र काफी देरी से प्रस्तुत किये जाने से चलने योग्य नहीं है तथा प्राथी को एक निश्चित कार्यक्रम "सीमा हकबंदी" के लिए एक निश्चित समयवधि के लिए दैनिक वेतन भोगी श्रमिक के रूप में कार्य पर रखा गया था एवं जिस कार्य के लिए उसे रखा गया वह कार्य समाप्त हो गया। ऐसी स्थिति में अधिनियम के प्रावधान इस प्रकरण में लागू

नहीं होना बताया। मदवार जवाब देते हुए बताया कि प्राथी को विपक्षी विभाग में कभी भी कोई नियुक्ति प्रदान नहीं की गई बल्कि "सीमा हकबंदी" के निश्चित कार्यक्रम पर दैनिक वेतन भोगी के रूप में निर्धारित मजदूरी को दर से दैनिक वेतन के आधार पर कार्य पर लिया गया था एवं खण्ड बीकानेर के लिए ही उसे कार्य पर लिया गया एवं खण्ड बीकानेर का कार्य समाप्त हो जाने के बाद उक्त निश्चित कार्य भी समाप्त हो गया। आगे बताया कि प्राथी को कभी भी कार्य से हटाया नहीं बल्कि वह स्वयं ही बिना किसी सूचना व अवकाश स्वीकृत करायें कार्य छोड़कर चला गया तथा बीकानेर का कार्य समाप्त होने पर बीकानेर खण्ड को समाप्त कर दिया एवं जैसलमेर खण्ड में कार्य शुरू किया गया जो कार्य अब समाप्त हो चुका है। प्राथी कभी भी बीकानेर अथवा जैसलमेर कार्य पर नहीं आया है न ही उसे पुनः कार्य पर लेने का कोई आश्वासन दिया गया। जहाँ तक प्राथी के बेरोजगार बैठे होने का प्रश्न है, इस तथ्य को प्राथी स्वीकार करे एवं प्राथी का क्लेम खारिज होने योग्य बताया।

4. साक्ष्य में स्वयं प्राथी पंकर राम परोक्षित हुआ व अप्राथी की ओर से श्री डी.के. पंजवानी के बयान कराये गये।

5. दोनों पक्षों की बहस सुनी। प्राथी प्रतिनिधि ने अपनी बहस में बताया कि प्राथी ने प्रदर्श डब्ल्यू-1 पत्र प्राथी को पुनः सेवा में रखने हेतु लिखा, उक्त पत्र में सभी तथ्यों का उल्लेख किया गया है तथा प्राथी को नौकरी से हटाने के बाद उससे कनिष्ठ तीन श्रमिक राजेन्द्र कुमार, जितेन्द्र कुमार व पुखराज को काम पर रखा गया है। पत्र डब्ल्यू-2 से सी.पी.डब्ल्यू.डी. मजदूर यूनियन ने कार्यपालक अभियन्ता जैसलमेर को उसे पुनः नौकरी में लेने तथा उसके पापले में क्या प्राप्ति हुई, संबंधी लिखा गया है। प्रदर्श डब्ल्यू-3 पत्र अभिशाली अभियन्ता बाईर डिवीजन-1 जैसलमेर द्वारा यूनियन को लिखा गया है जिसमें प्राथी को पुनः कार्य पर रखने का आश्वासन दिया गया। प्रदर्श डब्ल्यू-4 पत्र केन्द्रीय लोक निर्माण विभाग के कार्यपालक इंजीनियर जैसलमेर द्वारा पंकरराम को पुनः कार्य पर रखने हेतु अपने अधीन अभियन्ताओं को लिखा था। प्रदर्श डब्ल्यू-5 भी इसी आशय का पत्र है। उनकी आगे बहस है कि प्राथी ने सेवा समाप्ति से एक वर्ष पूर्व की अवधि में 240 दिन से अधिक कार्य किया, इस तथ्य को अप्राथी ने अस्वीकार नहीं किया है। इसके बावजूद भी प्राथी श्रमिक को सेवा से हटाने से पूर्व एक माह का नोटिस अथवा नोटिस वेतन नहीं दिया न ही सेवा समाप्ति संबंधी कोई मुआवजा दिया गया। प्राथी से कनिष्ठ श्रमिक कार्य कर रहे थे तथा सेवा मुक्ति के समय कोई वरिष्ठता सूची जारी नहीं की गई। उन्होंने अपने तर्क के समर्थन में दृष्टान्त (1) आर.एल.आर. 1982 पेज 848 (राजस्थान) किशन कुमार विरुद्ध यूनियन ऑफ इण्डिया, (2) डब्ल्यू.एल.सी. 1994(2) पेज 227 इन्फॉरेंस विभाग विरुद्ध रामेश्वर प्रसाद, (3) एम्.सी.सी. 1993 पेज 696 डी.के. यादव विरुद्ध जे.ए.ए. इण्डस्ट्रीज आदि व (4) आर.एल. डब्ल्यू. 1991 (1) 577 (राज.) जनरल मैनेजर नार्दन रेलवे विरुद्ध जज, सी.आई.टी. पेश किये।

6. अप्राथी प्रतिनिधि ने अपनी बहस में बताया कि प्राथी को एक निश्चित अवधि के लिए अर्थात् याईर फैंसिंग बीकानेर डिवीजन के कार्य पर लिया गया था एवं उक्त कार्य को समाप्त होने पर उक्त

नई दिल्ली, 21 अगस्त, 2008

का.आ. 2588.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय पुणे के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-8-08 को प्राप्त हुआ था।

[सं. एल-40012/29/2004-आई. आर. (डी. यू.)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 21st August, 2008

S.O. 2588.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-cum-Labour Court, Pune as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Bharat Sanchar Nigam Limited, and their workman, which was received by the Central Government on 21-08-2008.

[No. L-40012/29/2004-IR (DU)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI SHRIKANT K. DESHPANDE, INDUSTRIAL TRIBUNAL MAHARASHTRA AT PUNE

Reference (IT) No. 64 of 2004

The Principal General Manager,First Party
BSNL, Bajirao Road,
Pune-411 002.

And

Shri Ramrao Vishnu Thorat,Second Party
Post-Walki, Tal-Daund,
Pune.

In the matter of reinstatement with continuity of service.

CORAM : Shri Shrikant K. Deshpande, Member.

Appearances : Shri H. Y. Deo, Advocate for first party.

Shri A. Y. Shikarkhane, Advocate for
second party.

AWARD

Delivered on 19-07-2008

This is a Reference made by the Central Government Ministry of Labour, vide its order dtd. 07-10-2004 in exercise of powers conferred by Clause-(d) of Sub-Sec. (1) and Sub-Sec. (2A) of Section-10 of the Industrial Disputes Act, 1947 and referred the dispute in relation to the management of BSNL and Their Workman, in respect of matter specified in

the schedule that, "*Whether the workman Shri Ramrao Vishnu Thorat, was in employment as casual mazdoor in the Deptt. of Telecom/BSNL, under Sub Division Daund continuously from 1-1-99 to 31-12-99 ? If so, the action of the management in orally terminating/disengaging him w.e.f. 1-1-2000 without any notice and compensation is legal and justified and to what relief the concerned workman is entitled to and from which date*".

2. The brief facts of the case of Shri Ramrao Vishnu Thorat, (Party No. 2) are as under that, the party No. 2 was employed by the department of the Telecommunication Daund Sub Division at Telephone Exchange, Walki as part time/full time employee and was doing the work to join telephone cables, to rectify telephone and cable faults, to dig trenches, to climb telephone poles and work on overhead telephone lines, to clean the office and fill water under the supervision and control of Junior Telecom Officer (JTO) Kedgaon. He was being paid by JTO by obtaining signature on form ACG-17 and paid monthly wages of Rs. 1000/- and attendance was recorded in the muster roll. However on 1-1-2000 the JTO, Kedgaon discontinued his services without any notice or compensation. Thereafter the JTO Kedgaon continued to provide him work but wages were paid in cash without obtaining signature.

The party No. 2 added that All India SC/ST Union persuaded his case for permanency, accordingly the details regarding the employment of the party No. 2 alongwith similar situated workmen were called for considering their case for regularization, accordingly the details were sent after 3-1-03, however prior to that the dispute has been raised. The party No. 2 further added that in the meantime he was working under the party No. 1 till 1-5-03 and paid wages in cash, however thereafter they stopped giving work. Lastly the party No. 2 urged that there is sufficient full time work with party No. 1 and he could be absorbed on the regular vacant post, still the party No. 2 prays that party No. 1 be directed to absorb the second party in the regular vacancy in Group-D from 1-1-2000.

3. The BSNL (Party no. 1) strongly resisted the statement of claim by reply and denied all the contentions of the party No. 2 in totality. The party No. 1 contended that the statement of claim is not filed within the prescribed period, there is no employer and employee relationship between the parties. The party no. 1 were not paid by DOT/BSNL therefore the party No. 2 was not the employee of party No. 1.

The party No. 1 further contended that, the party No. 2 may be working under the contractor who were allotted the work by tender and he was working under the Contract Act, hence the contractors are under the obligation to maintain the record. The party No. 2 was never directly in service or under supervision of the party No. 1, hence the claim about the service does not arise. The party no. 1 also contended that their establishment is

governed, managed and controlled by rules and regulations of DOT, New Delhi. On formation of BSNL w.e.f. 1-10-2000 one time relaxation was given in conversion in full time casual labour. The application from PTCL and certificate from controlling authority were called to ascertain the genuine regarding information received from field, accordingly the committee was formed and member visited to the respective units and submitted the list. However the name of party no. 2 did not find place in the list and since he was not paid by DOT/BSNL, therefore he was not considered for permanency. Lastly the party no. 1 urged that the claim of party no. 2 is illegal therefore he is not entitled for any relief and ultimately requested that the Reference be answered in the negative.

4. My learned predecessor has framed the issues at Exh. 2, I have re-arranged and properly verded those issues as below and my findings and reasons to them are as below :

ISSUES	FINDINGS
1. Does the party no. 2 proves that he is employee of the party no. 1 ?	No;
2. Does the party no.1 prove that the party no.2 was engaged by contractor ?	Yes;
3. Does the party no.2 proves that the party no.1 had illegally terminated the services of party no.2 without complying the provisions of S.25F of the ID Act ?	Does not survive.
4. Whether the party no.2 is entitled to get reinstatement with continuity of service ?	No.
5. What Award ?	As per order below.

REASONS

5. **ISSUE No. 1 & 2 :** These issues are inter-related therefore answered together.

After carefully scanning the oral evidence of the parties available on record it seems that, the party no.2 deposed before the court that he joined as a casual labour at Telephone Exchange Walki which comes under Kedgaon Division of the party no.1 and carrying out the cleaning work of office, fetching water, cleaning batteries. He was reporting to JTO Kedgaon and in case of any default in telephone line JTO used to direct him to repair the said fault. He further deposed that there was no system of recording attendance, he was getting Rs. 1000/- pm by signing on ACG-17, however after taken over by the BSNL practice of signing on ACG-17 was discontinued.

Though the party no.2 specifically pleaded in the statement of claim that his attendance was being recorded in the muster roll, however party No. 2 deposed contrary to the pleadings that there was no system of recording attendance. Furthermore in cross-examination the party no.2 stated that there was separate telephone exchange at Walki and the distance is about 50 kms., there was no regular staff at Walki telephone exchange and he was the only casual labour at Walki and attending the work of repairing as per the instructions from JTO, Kedgaon and also stated the excepting repairing work other work was carried out by the contractors.

6. It has come on record through oral evidence adduced on behalf of the party no.1 that there was ban to the recruitment and employment of the casual labours for any type of work since 1990. The party no.1 started giving the work of excavating trenches, laying and jointing underground telephone cables, erection of DP and pillars in the rural areas to the contractors. It has also come on record that the party no.2 never worked during 16-5-97 to 30-5-02 as a regular employee or casual labour or casual employee under JTO Kedgaon, the payment of wages were never made to the party no.2 by the party no.1 nor the signatures of the party no.2 was obtained on ACG-17 or on other documents. The party no.2 was not employee of the Telecommunication department and never worked under the supervision and control of the JTO Kedgaon, his name was not on the muster roll nor the party no.2 was paid any time on pay roll. The witnesses of the party no.1 were fully cross-examined on behalf of the party no.2, however he could not bring substantial material on record.

From the above discussed oral evidence available on record it can be safely said that the party no.2 never worked regularly or casual employee with the party no.1 he was not on the muster roll nor on pay roll. There was no staff at Walki Telephone Exchange and the work which was alleged to have been performed by the party no.2 was given to the contractor. Similarly the casual labours were not being paid their wages on ACG-17, under such circumstances it is very difficult to accept that the party no.2 was working as a casual labour with party no.1.

7. As regards the documentary evidence it seems that; during the proceedings the party no.2 sought production of ACG-17 regarding payment of wages made by JTO Kedgaon alongwith monthly work orders, however the party no.1 denied the maintenance of such record, therefore my learned predecessor observed that the party no.2 may produce the secondary evidence to that effect and accordingly rejected the application. However no such secondary evidence has been placed on record by the party No.2.

Furthermore it reveals that the party No. 2 relied on the original complaint book (Exh.11-9) as well as scroo copies of proforma prescribed for part time casual labour (Exh.

U-10). On careful perusal of the entries in the complaint book (Exh. U-9) it seems that those entries are in respect of work alleged to have been performed by the party No.2 after 22-4-01 and there is no entry regarding the work performed by the party No.2 from January 99 to 31-12-99. Similarly in the prescribed proforma (Exh.U-10) there is no whisper that party No.2 worked as casual employee any time with the party No.1 thus merely on the basis of working days shown for the year 1999 in the proforma it will be unsafe to infer about casual employment of the party No.2 with the party No.1. Not only this but there is no mention in the proforma that to whom it was submitted by the party No. 2. Similarly the material column of the proforma appears to be blank. Thus I do not think that these documents are any way helpful to party No. 2 to show that he was working as casual labour with the party No.1.

8. From the above discussed oral as well as documentary evidence available on record, I reiterate that the party No. 2 was never worked as casual or regular employee with the party no.1, he was not on the muster roll of the party no.1 nor paid the wages on pay rolls like daily wages or casual employee by JTO Kedgaon. Moreover the work alleged to have been performed by the party no.2 appears to have been given to the contractor. The contractor used to make the payment to the employees working under him therefore it is very difficult to accept that the party No.2 was the employee of the party No. 1. At the most the party no.2 appears to have been the employee of the contractor and not of party no.1, hence I answer these Issues accordingly.

9. **ISSUE NO. 3 :** I have observed earlier that the party no.2 was not the employee of the party No. 1 it means there is no relationship of employer and employee between the party No. 1 & party No. 2 and in absence of that there is no question of continuous service as well as the compliance of the provisions of law while terminating the services of the employee therefore this issue does not survive, hence I answer this Issue Accordingly.

10. **ISSUE NO. 4 :** I have observed earlier that the party No.2 is not the employee of the party no.1 and in absence of relationship of employer & employee between the party No.1 and party No. 2, the party No. 2 is not entitled for any protection under law and party No. 2 is not entitled for any relief as prayed.

It is pertinent to note here that, in the statement of claim the party no.2 has specifically stated that even after termination w.e.f. 31-12-99 he was taken in service and since then he was working with party no.1 under JTO Kedgaon till 1-5-03. The party No. 2 further stated that there is sufficient full time work under SDE Daund at Kedgaon and other places and at other stations with the party No. 1 and he could be absorbed in regular vacant post, therefore prayed for direction to the party No. 1 to absorb him in regular

vacancy in group-D from 1-1-2000 with the consequential benefits. In fact I have observed earlier that party No. 2 was not an employee of the party No. 1, therefore not entitled for any relief as prayed, nor there is question of any direction to the party No. 1 to absorb the party No. 2 in regular employment of the party no.1.

It is worthwhile to mention here that by this reference the dispute regarding the termination of party No. 2 w.e.f. 1-1-2000 has been referred to this court for adjudication and except that no other issue has been referred to this court for adjudication, so the claim made by the party No. 2 regarding absorption in regular employment of the party No.1 is certainly not within the ambit of the Reference referred for adjudication therefore this court has no jurisdiction to adjudicate the same and grant relief accordingly. In brief the party no.2 is not entitled for relief as prayed, hence I answer this Issue in the negative.

In the result I proceed to pass the following Award.

AWARD

1. The Reference is answered in the negative.
2. Party No. 2 is not entitled for any relief as prayed.
3. Parties to bear their own costs.
4. Copies be sent to the appropriate authorities.

PUNE:

DATE: 19-7-2008

SHRIKANT K. DESHPANDE, Industrial Tribunal

नई दिल्ली, 21 अगस्त, 2008

का.आ. 2589 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय पुणे के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-8-08 को प्राप्त हुआ था।

[सं. एल-40012/28/2004-आई. आर. (डी. यू.)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 21st August, 2008

S.O. 2589.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-cum-Labour Court, Pune as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Sanchar Nigam Limited, and their workman, which was received by the Central Government on 21-08-2008.

[No. L-40012/28/2004-IR(DU)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE**BEFORE SHRI SHRIKANT K. DESHPANDE,
INDUSTRIAL TRIBUNAL MAHARASHTRA
AT PUNE****Reference (IT) No. 61 of 2004**

The Principal General Manager,First Party
BSNL, Bajirao Road,
Pune-411 002.

And

Shri Sanjay Pandurang Sonawane,Second Party
Post : Patas Station, Teh : Daund,
Pune.

In the matter of reinstatement with continuity of service.

CORAM : Shri Shrikant K. Deshpande, Member.

Appearances : Shri H. Y. Deo, Advocate for first party.
Shri A. Y. Shikarkhane, Advocate for
second party.

AWARD

Delivered on 19-07-2008

This is a Reference made by the Central Government Ministry of Labour vide its order dtd. 11-10-04 in exercise of powers conferred by Clause (d) of sub-sec. (1) and sub-sec. (2A) of Section 10 of the Industrial Disputes Act, 1947 and referred the dispute in relation to the Mangement of BSNL and their Workman, in respect of matter specified in the schedule that, "Whether the workman Shri Sanjay Pandurang Sonawane was in employment as casual mazdoor in the Dept. of Telecom BSNL, under Sub Division Daund continuously from 1996 to 31-12-99? If so, the action of the management in orally terminating-disengaging him w.e.f. 1-1-2000 without any notice and compensation is legal and justified and to what relief the concerned workman is entitled to and from which date".

2. The brief facts of the case of Shri Sanjay Pandurang Sonawane (Party No. 2) are as under that, the party No. 2 was employed by the Department of the Telecommunications Daund Sub Division at Telephone Exchange Kedgaon as part time full time employee and was doing the work to join telephone cables, to rectify telephone and cable faults, to dig trenches, to climb telephone poles and work on overhead telephone lines, to clean the office and fill water under the supervision and control of Junior Telecom Officer (JTO) Kedgaon. He was being paid by JTO by obtaining signature on form ACG-17, paid monthly wages of Rs. 1000 and attendance was recorded in the muster roll. However on 1-1-2000 the JTO Kedgaon discontinued his services without any notice or compensations. Thereafter the JTO Kedgaon continued to provide him work but wages were paid in cash without obtaining signature.

The party No. 2 added that All India SC/ST Union persuaded his case for permanency, accordingly the details regarding the employment of the party No. 2 alongwith similar situated workmen were called for considering their case for regularization, accordingly the details were sent after 3-1-03, however prior to that the dispute has been raised. The party No. 2 further added that in the meantime he was working under the party No. 1 till 23-8-2003 and paid wages in cash however thereafter they stopped giving work. Lastly the party No. 2 urged that there is sufficient full time work with party No. 1 and he could be absorbed on the regular vacant post, thus the party No. 2 prays that party No. 1 be directed to absorb the second party in the regular vacancy in Group-D from 1-1-2000.

3. The BSNL (Party No.1) strongly resisted the statement of claim by reply and denied all the contentions of the party No.2 in totality. The party No.1 contended that the statement of claim is not filed within the prescribed period, there is no employer & employee relationship between the parties. The party No.1 were not paid by DOF BSNL therefore the party No.2 was not the employee of party No.1.

The party No.1 further contended that the party No.2 may e working under the contractor who were allotted the work by tender and he was working under the Contract Act, hence the contractors are under the obligation to maintain the record. The party No.2 was never directly in service or under supervision of the party No.1, hence the claim about the service does not arise. The party No.1 also contended that their establishment is governed, managed and controlled by rules and regulations of DOF, New Delhi. On formation of BSNL, w.e.f. 1-10-2000 one time relaxation was given in conversation in full time casual labour. The application from PTCE and certificate from controlling authority were called to ascertain the genuine regarding information received from field, accordingly the committee was formed and member visited to the respective units and submitted the list. However the name of party No. 2 did not find place in the list and since he was not paid by DOF BSNL, therefore he was not considered for permanency. Lastly the party No.1 urged that the claim of party No. 2 is illegal therefore he is not entitled for any relief and ultimately requested that the Reference be answered in the negative.

4. My learned predecessor has framed the issues at Exh. 2, I have re-arranged and properly verded those issues as below and my findings and reasons to them are as below.

ISSUES	FINDINGS
(1) Does the party No. 2 proves that he is employee of the party No. 1?	No.
(2) Does the party No. 2 prove that the party No. 2 was engaged by contractor?	Yes.

- (3) Does the party No.2 proves that the party No.1 had illegally terminated the services of party No.2 without complying the provisions of S.25F of the ID Act ? Does not survive;
- (4) Whether the party No. 2 is entitled to get reinstatement with continuity of service ? No;
- (5) What Award ? As per order below.

REASONS

5. **ISSUE NO. 1 & 2 :** Both these issues are interrelated therefore answered together. In the present reference the dispute appears to be regarding status of the party No.2, i.e. whether the party No. 2 is an employee of the party No.1 or the employee of the contractor. The subsequent issue depends on earlier issue and to discharge the burden regarding the status, the party No.2 has examined himself alongwith Mr. Balgude, the then officiating line Inspector on his behalf. Whereas the party No. 1 has relied on the evidence of Mr. Tiwari, Ovhal & Gundecha, JTO's & Sub-Divisional Engineer in rebuttal.

6. It has come on record that, the party No.2 was working at Sub-Division Daund, Telephone Exchange Kedgaon of the party No.1, he was required to dig pits, to carry out cleaning work, to carry out repairing work of telephone fault and joined the cables. He was performing these works as per the direction of the Line Inspector Mr. Balgude who was working under the supervision of Mr. R. P. Tiwari, JTO. He was getting Rs. 1000/- p.m. towards the wages, the JTO Kedgaon was the drawing and disbursing authority and at the time of payment his signatures were obtained on ACG-17. His attendance was recorded on muster attendance rolls and since telecommunication department is taken over by BSNL he was getting salary by cash without signing any receipt.

It has further come on record that the name of casual labours only appears on the muster roll of JTO and the employees on the muster roll were getting their names included in the pay rolls while receiving the wages and party No.2 fairly admitted that he was never paid on pay rolls. Though the party No.2 denied that he was never enrolled on the muster roll of JTO, however as per admission given by the party No.2 regarding non-receiving the wages on pay roll, it can be safely inferred that the party No.2 was not on the muster roll nor on the pay roll of the JTO Kedgaon.

7. It seems that the party No.2 has examined Mr. Balgude, Line Inspector on the point of supervision and control over his work and accordingly he deposed that the party No.2 joined the duties in Telephone Exchange Kedgaon and working as a helper to cable joiner with him. Mr. Tiwari, JTO used to allot the work to the party No.2 and the party No.2 was working as per the direction of Mr. Tiwari and Line Inspector, he used to supervise the work of the party No.2 and used to sign the diary maintained

by the party No.2 for verification of work done by him. However in the cross-examination witness stated that he used to carry out the construction of new telephone lines with the help of 10 to 12 persons and their attendance register was standing in his name. The labours working with him were on muster roll, they were casual labours on daily wages and carrying out the erection work of telephone lines only. the witness fairly admitted that the name of the party No.2 was never appearing on his muster roll when he was in Sub-Division Daund. The witness also deposed that after 1998 the construction work of the telephone lines were being carried out through contractor, since then the practice of maintaining muster roll was stopped. However those muster rolls were in respect of casual labours working with Line Inspector.

The witness further deposed that since 1998 the construction of telephone lines i.e. putting overhead wires as well as underground cable work was being carried out through contractor and since then the practice of maintaining muster roll as well as engagement of casual workers for the said work was stopped. When the contractor was appointed for carrying out the cable work and overhead wire work, they used to appoint their casual labours and contractor used to make payment of their casual labours. The casual labours working with party No.1 were getting their wages by putting their signatures on the last column of the muster roll and they were not getting the wages by not signing on ACG-17.

8. It has come on record through oral evidence adduced on behalf of the party No. 1 that, there was ban to the recruitment on employment of the casual labours for any type of work. Since 1990 the party No. 1 started giving the work of excavating trenches, laying and jointing underground telephone cables, erection of DP and pillars in the rural areas to the contractors. The party No. 2 Sanjay Pandurang Sonawane never worked during 1991 to April 1997 and 16-5-97 to 30-5-02 as regular employee, casual labour or casual employee under JTO Kedgaon payment of wages were never made to the party No.2 by the party No.1 nor the signatures were obtained on ACG-17. The party No. 2 was never employee of Telecommunication Department and never worked under the supervision and control of JTO Kedgaon. The attendance of the party No.2 was never recorded in the muster roll nor paid any time by JTO. The witness were cross-examined by the party No.2, however could bring substantial material on record.

It is worth while to mention here that, the party No.2 has stated about recording attendance on muster roll as well as getting the payment by signing on ACG-17. The party No. 2 fairly admitted that he never received the wages on pay rolls and as per the oral evidence of the witness of the party No. 2 the casual labours working with the party No.1 were getting their wages by putting their signatures in the last column of the muster roll and they were not getting their wages by signing on AC-17. This itself shows that the party No.2 was never on the muster roll of the party No.1 nor he was any time paid wages on the pay rolls like the other casual workers working with party No.1.

9. From the above discussed oral evidence available on record it can be safely inferred that the party No. 2 never worked as a regular or casual employee under JTO Kedgaon. He was not on the muster roll nor on pay roll of JTO Kedgaon. The work performed by the party No. 2 appears to have been given to the contractor. As regards the supervision and direction to the work, the party No.2 appears to have been relied on the oral evidence of Mr. Balgude, Line Inspector, however he clarified that the name of the party No.2 was never appearing on the muster rolls. The contractors used to make the payments of the casual labours working with them and also clarified that the casual labours were not getting their wages by signing ACG-17. Though the party No.2 stated that he was performing the work as per the direction of Mr. Balgude, however Mr. Balgude deposed otherwise that Mr. Tiwari, JTO used to allot the work to the party No.2 and the party No.2 was working as per the direction of Mr. Tiwari. Under such circumstances on the basis of above discussed oral evidence it is very difficult to accept that the party No. 2 was working as a casual labour in Sub-Division Daund of the party No.1.

10. After considering the oral evidence available on record let us consider the documentary evidence relied by the party No.2 to substantiate their claim before the court. It reveals that during the proceedings the party No. 2 sought production of form ACG-17 regarding payment of wages made by JTO Kedgaon alongwith monthly work orders, however the party No.1 denied the maintenance of such record therefore my learned predecessor observed that the party No.2 may produce the secondary evidence to that effect and accordingly rejected the application, however no such documents are placed on record.

Furthermore it reveals that the party No.2 relied on various documents which are placed before the court alongwith list Exh. U-17. On careful perusal of those original documents available on record it seems that, those are in respect of instruction about the work given by JTO Kedgaon & JTO Yewat, the inspection report for September 2002, and July 2003 alongwith diaries maintained by the party No.2. In fact it has come on record that JTO Yewat & JTO Kedgaon are different and JTO Yewat has no concern with JTO Kedgaon, therefore the instructions issued by JTO Yewat are not in all material in the present case. Similarly though the documents at Exh. U-9& Exh. U-10 bears the signature of JTO Kedgaon, however those chits/documents are of 2003 i.e. after the period of termination of party No. 2 therefore not useful to decide about the employment of the party No.2 with party No.1 and merely on the basis of diaries regarding the work performed by the party No.2. It is very difficult to accept that the party No.2 was working with party No.1 (that too as casual employee,

11. Furthermore in spite of direction to produce the secondary evidence regarding the ACG-17 i.e. in respect of payment made to the party No. 2 no attempts were made on behalf of party No. 2. To bring such material before the

court. In fact though the party No.2 stated on oath that his attendance was recorded on muster attendance rolls however there is no explanation as to why the production of those muster rolls was not sought by the party No.2 from the party No. 1 and in absence of that by no stretch of imagination it can be said that party No.2 was working as casual employee on muster roll of the party No.1 and he was being paid wages on pay rolls.

Much reliance has been placed by the party No.2 on xerox copies of documents Exh. U-7 & U-8. On perusal of these documents it seems that those are the proforma prescribed for part time casual labour and bears the signature of party No.2. However there is no whisper in the proforma that the party No.2 worked as casual employee any time with the party No.1 and merely on the basis of certain working days shown year wise in the proforma it cannot be inferred about casual employment of the party No.2 with the party No.1. Furthermore signatory of the certificate i.e. JTO denied their signatures appearing on the documents alleging that the signatures is forged. In case on denial of signature on the xerox copies of proforma, the party No.2 was at liberty to sought production original documents i.e. original proforma from the party No.1 if the originals were submitted to party No. 1 but no such production was sought by the party No.2 for the reasons best known to him. Not only this but there is no mention on the proforma that to whom it was submitted by the party No. 2. Similarly the material columns of the proforma appears to be blank and Exh. U8 does not bears the various stamps and signatures like Exh. U-9, therefore I do not think that these documents are any way helpful for the party No.2 to demonstrate that he was working as casual labour with party No. 1.

From the above discussed oral as well as documentary evidence available on record, I reiterate that the party No.2 was never worked as casual or regular employee with the party No. 1. He was not on the muster roll of the party No. 1 nor paid the wages on pay rolls like daily wages or casual employee by JTO Kedgaon. The party No.2 never worked under the supervision & control of JTO Kedgaon of the party No. 1. Moreover the work which was performed by the party No.2 was given to the contractor. The contractor used to make the payment to the employees working under him therefore it is very difficult to accept that the party No. 2 was employee of the party No.1. At the most the party No.2 appears to be the employee of the contractor and not the party No.1, hence I am not these issues accordingly.

12. **Issue No. 3 :** I have observed earlier that the party No. 2 was not the employee of the party No.1 it means there is no relationship of employer & employee between the party No. 1 and Party No. 2 and in absence of that there is no question of continuous service as well as the compliance of the provisions of law while terminating the services of the employee therefore this issued does not survive, hence I answer this issue accordingly.

13. Issue No. 4 : I have observed earlier that the party No. 2 is not the employee of the party No. 1 and in absence of relationship of employer & employee between the party No. 1 and party No. 2, the party No. 2 is not entitled for any protection under law and party No. 2 is not entitled for any relief as prayed.

It is pertinent to note here that, in the statement of claim the party No. 2 has specifically stated that even after termination w.e.f. 31-12-99 he was taken in service and since then he was working with party No.1 under JTO Kedgaon till 23-8-03. The party No.2 further stated that there is sufficient full time work under SDE Daund at Kedgaon and other places and at other stations with the party No. 1 and he could absorbed in regular vacant post, therefore prayed for direction to the party No.1 to absorb him in regular vacancy in group-D from 1-1-2000 with the consequential benefits. In fact I have observed earlier that party No.2 was not an employee of the party No.1, therefore not entitled for any relief as prayed, nor there is question of any direction to the party No.1 to absorb the party No.2 in regular employment of the party No. 1.

It is worthwhile to mention here that by this reference the dispute regarding the termination of party No. 2 w.e.f. 1-1-2000 has been referred to this court for adjudication and except that no other issue has been referred to this court for adjudication, so the claim made by the party No. 2 regarding absorption in regular employment of the party No. 1 is certainly not within the ambit of the Reference referred for adjudication, therefore this court has no jurisdiction to adjudicate the same and grant relief accordingly. In brief the party No. 2 is not entitled for relief as prayed, hence I answer this issue in the negative.

In the result I proceed to pass the following Award.

AWARD

1. The Reference is answered in the negative.
2. Party No. 2 is not entitled for any relief as prayed.
3. Parties to bears their own costs.
4. Copies be sent to the appropriate authorities.

SHRIKANT K. DESHPANDE, Industrial Tribunal
Pune :

Date: 19-7-2008

नई दिल्ली, 21 अगस्त, 2008

का.आ. 2590.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकॉम कोएक्सीएल केबल प्रोजेक्ट के प्रबंधन के संबंध में नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर, के पंचाट (संदर्भ संख्या सी जी आईटी/एल सी/ आर/209/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-8-08 को प्राप्त हुआ था।

[सं. एल-40011/10/90-आई आर (डी यू)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 21st August, 2008

S.O. 2590.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. CGIT/LC/R/209/90) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur, as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Telecom Coaxial Cable Project, and their workman, which was received by the Central Government on 21-08-2008.

[No. L-40011/10/90-IR(DU)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR- COURT, JABALPUR

No. CGIT/LC/R/209/90

Presiding Officer : Shri C.M. Singh

The Branch Secretary,
Akhil Bhartiya Tar Yantirik Karmachari Sangh,
Line Staff and Group-D,
Mandal Abhiyanta Telegraph,
Branch : Jabalpur (MP)

—Workman/Union

Versus

The Divisional Engineer,
Telecom Coaxial Cable Project,
M.I.G. -2, Govind Bhavan,
South Civil Lines,
Jabalpur

— Management

AWARD

Passed on this 6th day of August, 2008

1. The Government of India, Ministry of Labour vide its Notification No. L-40011/10/90-IR(DU) dated 27-10-90 has referred the following dispute for adjudication by this Tribunal :—

“Whether the action of the Div. Engineer, Telecom Coaxial Cable Project, Jabalpur in retrenching S/Shri Gopichand Chakole and 16 others casual workers w.e.f. 1-5-88 is justified? If not, to what relief the workers concerned are entitled to?”

2. In this reference, notices were issued to the parties by Registered AD post which were received back with the endorsement of the postal department that the parties donot reside on the given address. Again several times, notices were issued to the parties under Certificate of Posting. Those notices have been received back without service perhaps from the above reason as endorsed above by the Postal Department. Under the circumstances, this Tribunal is not left with any option but to close the reference for no dispute award.

3. It appears from the above that none of the parties is interested in the dispute and perhaps no dispute is left between them. Therefore, it is just and proper to pass no dispute award. No dispute award is passed in this case without any orders as to costs.

4. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 21 अगस्त, 2008

का.आ. 2591 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, पुणे के पंचाट (संदर्भ संख्या ...) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-8-08 को प्राप्त हुआ था।

[सं. एल-40012/25/2004-आई आर (डी यू)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 21st August, 2008

S.O. 2591 .—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. ...) of the Industrial Tribunal-cum-Labour Court, Pune, as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Bharat Sanchar Nigam Limited, and their workman, which was received by the Central Government on 21-08-2008.

[No. I-40012/25/2004-IR (DU)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE SHRI SHRIKANT K. DESHPANDE,
INDUSTRIAL TRIBUNAL**

MAHARASHTRA AT PUNE

Reference (IT) No. 63 of 2004

The Principal General Manager,First Party
BSNL, Bajirao Road.
Pune-411 002.

And

Shri Nitesh D. Shelar,Second Party
Post Kangaon, Patas Station.
Tal-Daund, Pune.

In the matter of reinstatement
with continuity of service.

CORAM : Shri Shrikant K. Deshpande, Member.

Appearances : Shri H. Y. Deo, Advocate for first party.
Shri A. Y. Shikarkhane, Advocate for
second party.

AWARD

Delivered on 19-07-2008

This is a Reference made by the Central Government Ministry of Labour, vide its order dtd. 11-10-04 in exercise of powers conferred by Clause-(d) of Sub-Sec.(1) & Sub-Sec.(2A) of Section-10 of the Industrial Disputes Act, 1947

and referred the dispute in relation to the Management of BSNL and Their Workman, in respect of matter specified in the schedule that, "Whether the workman Shri Nitesh D. Shelar was in employment as casual mazdoor in the Deptt. of Telecom/BSNL under Sub Division Daund continuously from 1997 to 31-12-99 " If so the action of the management in orally terminating disengaging him w.e.f. 1-1-2000 without any notice and compensation is legal and justified and to what relief the concerned workman is entitled to and from which date".

2. The brief facts of the case of Shri Nitesh D. Shelar (Party No. 2) are as under that, the party No. 2 was employed by the department of the Telecommunications Daund Sub Division at Telephone Exchange Warwand as part time/full time employee and was doing the work to join telephone cables, to rectify telephone and cable faults, to dig trenches, to climb telephone poles and work on overhead telephone lines, to clean the office and fill water under the supervision and control of Junior Telecom Officer (JTO) Kedgaon. He was being paid by JTO by obtaining signature on form ACG-17 and paid monthly wages of Rs. 1000/- and attendance was recorded in the muster roll. However on 1-1-2000 the JTO, Kedgaon discontinued his services without any notice or compensations. Thereafter the JTO Kedgaon continued to provide him work but wages were paid in cash without obtaining signature.

The party No. 2 added that All India SC/ST Union persuaded his case for permanency, accordingly the details regarding the employment of the party No. 2 alongwith similar situated workmen were called for considering their case for regularization, accordingly the details were sent after 3-1-03, however prior to that the dispute has been raised. The party No.2 further added that in the meantime he was working under the party No. 1 till 23-8-2003 and paid wages in cash however thereafter they stopped giving work. Lastly the party No. 2 urged that there is sufficient full time work with party No.1 and he could be absorbed on the regular vacant post, thus the party No.2 prays that party No. 1 be directed to absorb the second party in the regular vacancy in Group-D from 1-1-2000.

3. The BSNL (Party No.1) strongly resisted the statement of claim by reply and denied all the contentions of the party No. 2 in totality. The party No. 1 contended that the statement of claim is not filed within the prescribed period, there is no employer and employee relationship between the parties. The first party were not paid by DOT BSNL, therefore the party No.2 was not the employee of party No. 1.

The party No.1 further contended that the party No.2 may be working under the contractor who were allotted the work by tender and he was working under the Contract Act, hence the contractors are under the obligation to maintain the record. The party No. 2 was never directly in service or under supervision of the party No. 1, hence the

claim about the service does not arise. The party No. 1 also contended that their establishment is governed, managed and controlled by rules and regulations of DOT, New Delhi. On formation of BSNL w.e.f. 1-10-2000 one time relaxation was given in conversation in full time casual labour. The application from PTCL and certificate from controlling authority were called to ascertain the genuine regarding information received from field, accordingly the committee was formed and member visited to the respective units and submitted the list. However the name of part No. 2 did not find place in the list and since he was not paid by DOT/BSNL therefore he was not considered for permanency. Lastly the party No. 1 urged that the claim of party No. 2 is illegal therefore he is not entitled for any relief and ultimately requested that the Reference be answered in the negative.

4. My learned predecessor has framed the issues at Ex. 02, I have re-arranged and properly worded those issues as below and my findings and reasons to them are as below :

ISSUES	FINDINGS
(1) Does the party No. 2 proves that he is employees of the party No. 1 ?	No ;
(2) Does the party No. 1 prove that the party No.2 was engaged by contractor ?	Yes;
(3) Does the party No. 2 proves that the party No. 1 had illegally terminated the services of party No. 2 without complying the provisions of S.25F of the ID Act ?	Does not survive;
(4) Whether the party No. 2 is entitled to get reinstatement with continuity of service ?	No ;
(5) What Award ?	As per order below.

REASONS

5. **ISSUE NO. 1 and 2 :** Both these issues are inter-connected. The subsequent issue i.e. (issue No. 2) depends on the earlier issue i.e. (issue No.1), therefore those are answered together.

After carefully scanning the oral evidence of the parties available on record it seems that, the party No. 2 deposed before the court that he was working as a office-boy with the party No. 1 since 1997. He was appointed by Mr. Tiwari, JTO and he was getting Rs. 1000 pm and JTO used to obtain his signatures on ACG-17. He further deposed that he was cleaning the office, fetching water, and besides the work of office-boy he was also doing the work of defecting faults by climbing on the pole and he was

attending the defect fault as per the direction of Mr. Tiwari.

Though the party No. 2. has specifically pleaded in the statement of claim that, his attendance was being recorded in the muster roll, however the party No. 2 never deposed about the same before the court. Moreover the party No.2 fairly admitted that his name was not appearing on the muster roll maintained by the Telephone Department as well as party No.1 In view of this and particularly in the light of admission given by the party No.2 it can be safely said that the party No.2 was not on the muster roll and he was not paid on pay rolls.

6. It has come on record through the oral evidence adduced on behalf of the party No. 1 that there was ban to the recruitment on employment of casual labours for any type of work. Since 1990 the party No.1 started giving the work of excavating trenches, laying and joining underground telephone cable, erection of DP and pillars in the rural areas to the contractors. It has also come on record that the party No. 2 never worked during 16-5-97 to 30-5-02 and never worked with JTO as a regular employee or as a casual labour or casual employee under JTO Kedgaon. The party No.1 never made payment on wages to the party No. 2, nor the signatures were obtained on ACG-17 or on any other documents. The party No. 2 was never an employee of the department of the Telecommunication and never worked under the supervision and control of JTO Kedgaon, his name was not on the muster roll and nor paid any time by the JTO. The witness was fully cross-examined by the party No.2, however they could not bring any substantial material on record in rebuttal.

From the above discussed oral evidence available on record it can be safely said that the party No. 2 was not on the muster roll nor on the pay roll of JTO Kedgaon, the work which was alleged to have been performed by the party No.2 appears to have been given to the contractor and the casual labours were not getting their wages on ACG-17. Under such circumstances it is very difficult to accept that the party No. 2 was working as a casual labour with party No.1.

7. After considering the oral evidence available on record let us consider the documentary evidence relied by the part No.2 to substantiate their claim before the court. It reveals that during the proceedings the party No.2 sought production of ACG-17 regarding payment of wages made by JTO Kedgaon alongwith monthly work orders, however the party No.1 denied the maintenance of such record therefore my learned Predecessor observed that the party No.2 may produce the secondary evidence to that effect and accordingly rejected the application, however no such documents are placed on record.

Moreover it reveals that the party No. 2 relied on various documents which are placed before the court alongwith list Exh. U-7. On careful perusal of those documents available on record it seems that, the party

No. 2 relied on the diaries maintained by him. There appears certain entries regarding the work performed by the party No. 2, but there is absolutely nothing on record to show that those work was directed by the party No. 1 and the party No.2 has maintained such diaries as per the instructions of the party No.1. Similarly there are certain entries about the work, which was performed by the party No. 2 in the month of September 2000, however the services of the party No. 2 appears to have been terminated after 31-12-99. Under such circumstances I do not think that certain entries in the diary maintained by the party No.2 are any way helpful to the party No.2 to establish before the court that he was working as casual labour with the party No. 1.

8. Furthermore in spite of direction to produce the secondary evidence regarding the ACG-17 i.e. in respect of payment made to the party No. 2 no attempts were made on behalf of party No. 2 to bring such material before the court. In fact though the party No. 2 stated on oath that his attendance was recorded on muster attendance rolls however there is no explanation as to why the production of those muster rolls was not sought by the party No. 2 from the party No. 1 and in absence of that by no stretch of imagination it can be said that party No. 2 was working as casual employee on muster roll of the party No. 1 and he was being paid wages on pay rolls.

Much reliance has been placed by the party No.2 on xerox copies of documents Exh. U-7 which is the proforma prescribed for part time casual labour and bears the signature of party No. 2. However there is no whisper in the proforma that the party No. 2 worked as casual employee any time with the party No.1 thus merely on the basis of certain working days shown year wise in the proforma it will be unsafe to infer about the casual employment of the party No. 2 with the party No. 1. Furthermore though the witness of the party No.1 admitted his signature on the proforma however specifically denied that the party No. 2 worked under his control and supervision. Not only this but there is no mention in the proforma that to whom it was submitted by the party No.2 Similarly the material columns of the proforma appears to be blank, therefore, I do not think that this document is any way helpful to the party No.2 to show that he was working as a casual labour with the party No.1.

From the above discussed oral as well as documentary evidence available on record, I reiterate that the party No. 2 was never worked as casual or regular employee with the party No. 1. He was not on the muster roll of the party No. 1 nor paid the wages on pay rolls like daily wages or casual employee by JTO Kedgaon. The party No. 2 never worked under the supervision and control of JTO Kedgaon of the party No. 1. Moreover the work which was performed by the party No. 2 was given to the contractor. The contractor used to make the payment to the employees working under him therefore it is very difficult to accept

that the party No. 2 was employee of the party No.1 At the most the party No. 2 appears to be the employee of the contractor and not the party No.1, hence I answer these issues accordingly.

9. Issue No. 3 : I have observed earlier that the party No. 2 was not the employee of the party No. 1. It means there is no relationship of employer and employee between the party No. 1 and Party No. 2 and in absence of that there is no question of continuous service as well as the compliance of the provisions of law while terminating the services of the employee therefore this issue does not survive, hence I answer this issue accordingly.

10. Issue No. 4 : I have observed earlier that the party No. 2 is not the employee of the party No. 1 and in absence of relationship of employer & employee between the party No. 1 and party No. 2, the party No. 2 is not entitled for any protection under law and party No.2 is not entitled for any relief as prayed.

It is pertinent to note here that, in the statement of claim the party No. 2 has specifically stated that even after termination w.e.f. 31-12-99 he was taken in service and since then he was working with party No.1 under JTO Kedgaon till 23-8-03. The party No.2 further stated that there is sufficient full time work under SDE Daund at Kedgaon and other places and at other stations with the party No.1 and he could be absorbed in regular vacant post, therefore prayed for direction to the party No.1 to absorb him in regular vacancy in group-D from 1-1-2000 with the consequential benefits. In fact I have observed earlier that party No. 2 was not an employee of the party No. 1, therefore not entitled for any relief as prayed, nor there is question of any direction to the party No.1 to absorb the party No.2 in regular employment of the party No. 1.

It is worthwhile to mention here that by this reference the dispute regarding the termination of party No. 2 w.e.f. 1-1-2000 has been referred to this court for adjudication and except that no other issue has been referred to this court for adjudication, so the claim made by the party No. 2 regarding absorption in regular employment of the party No. 1 is certainly not within the ambit of the Reference referred for adjudication, therefore this court has no jurisdiction to adjudicate the same and grant relief accordingly. In brief the party No.2 is not entitled for relief as prayed, hence I answer this issue in the negative.

In the result I proceed to pass the following Award.

AWARD:-

1. The Reference is answered in the negative.
2. Party No. 2 is not entitled for any relief as prayed.
3. Parties to bear their own costs.
4. Copies be sent to the appropriate authorities.

Pune :

Date: 19-7-2008

SHRIKANT K. DESHPANDE, Industrial Tribunal, PUNE

नई दिल्ली, 21 अगस्त, 2008

का. आ. 2592.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निरिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायलय पुणे के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-8-2008 प्राप्त हुआ था।

[सं. एल-40012/26/2004-आई.आर.(डी.यू.)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 21st August, 2008

S.O. 2592.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal-cum-Labour Court, Pune as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Bharat Sanchar Nigam Limited, and their workman, which was received by the Central Government on 21-08-2008.

[No. L-40012/26/2004-IR(DU)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI SHRIKANT K. DESHPANDE,
INDUSTRIAL TRIBUNAL MAHARASHTRA AT PUNE

REFERENCE(TT) NO. 62 OF 2004

The Principal General Manager,
BSNL, Bajirao Road,
Pune-411 002.

... First Party

And

Shri Mahadeo Baban Thorat
Post-Khurbav, Tal-Daund,
Pune.

... Second Party

In the matter of reinstatement with continuity of service.

Coram : Shri Shrikant K. Deshpande, Member.

Appearances : Shri H. Y. Deo, Advocate for first party.
Shri A.Y. Shikarkhane, Advocate for
second party.

AWARD

Delivered on 19-07-2008

This is a Reference made by the Central Government Ministry of Labour, vide its order dtd. 11-10-04 in exercise of powers conferred by Clause (d) of Sub-sec. (1) & Sub-sec. 2(A) of Section-10 of the Industrial Disputes Act,

1947 and referred the dispute in relation to the Management of BSNL and Their Workman, in respect of matter specified in the schedule that, "Whether the workman Shri Mahadeo Baban Thorat was in employment as casual mazdoor in the Deptt. of Telecom/BSNL, under Sub Division Daund continuously from 1998 to 31-12-99? If so, the action of the management in orally terminating/ disengaging him w.e.f. 1-1-2000 without any notice and compensation is legal and justified and to what relief the concerned workman is entitled to and from which date".

2. The brief facts of the case of Shri Mahadeo Baban Thorat (Party No. 2) are as under that, the party no. 2 was employed by the department of the Telecommunications Daund Sub Division at Telephone Exchange Khurbav as part time/full time employee and was doing the work to join telephone cables, to rectify telephone & cable faults, to dig trenches, to climb telephone poles and work on overhead telephone lines, to clean the office and fill water under the supervision and control of Junior Telecom Officer (JTO) Kedgaon. He was being paid by JTO by obtaining signature on form ACG-17 and paid monthly wages of Rs. 1000/ and attendance was recorded in the muster roll. However on 1-1-2000 the JTO, Kedgaon discontinued his services without any notice or compensation. Thereafter the JTO Kedgaon continued to provide him work but wages were paid in cash without obtaining signature.

The party no. 2 added that All India SC/ST Union persuaded his case for permanency, accordingly the details regarding the employment of the party no. 2 alongwith similar situated workmen were called for considering their case for regularization, accordingly the details were sent after 3-1-03, however prior to that the dispute has been raised. The party no. 2 further added that in the meantime he was working under the party no. 1 till 30-11-03 and paid wages in cash, however thereafter they stopped giving work. Lastly the party no. 2 urged that there is sufficient full time work with party no. 1 and he could be absorbed on the regular vacant post, still the party no. 2 prays that party no. 1 be directed to absorb the second party in the regular vacancy in Group-D from 1-1-2000.

3. The BSNL (Party no. 1) strongly resisted the statement of claim by reply and denied all the contentions of the party no. 2 in totality. The party no. 1 contended that the statement of claim is not filed within the prescribed period, there is no employer & employee relationship between the parties. The first party were not paid by DOT/ BSNL therefore the party no. 2 was not the employee of party no. 1.

The party no. 1 further contended that, the party no. 2 may be working under the contractor who were allotted the work by tender and he was working under the Contract Act, hence the contractors are under the obligation to maintain the record. The party no. 2 was never directly in service or under supervision of the party no. 1, hence the

claim about the service does not arise. The party no. 1 also contended that their establishment is governed, managed and controlled by rules and regulations of DOT, New Delhi. On formation of BSNL, w.e.f. 1-10-2000 one time relaxation was given in conversion in full time casual labour. The application from PTCL and certificate from controlling authority were called to ascertain the genuine regarding information received from field, accordingly the committee was formed and member visited to the respective units and submitted the list. However the name of party no. 2 did not find place in the list and since he was not paid by DOT/BSNL, therefore he was not considered for permanency. Lastly the party no. 1 urged that the claim of party no. 2 is illegal therefore he is not entitled for any relief and ultimately requested that the Reference be answered in the negative.

4. My learned predecessor has framed the issues at Exh. 02, I have re-arranged and properly worded those issues as below and my findings and reasons to them are as below—

ISSUES	FINDINGS
1. Does the party no. 2 proves that he is employee of the party no. 1?	No;
2. Does the party no. 1 prove that the party no. 2 was engaged by contractor?	Yes;
3. Does the party no. 2 proves that the party no. 1 had illegally terminated the services of party no. 2 without complying the provisions of S. 25 F of the ID Act?	Does not survive;
4. Whether the party no. 2 is entitled to get reinstatement with continuity of service?	No;
5. What Award?	As per order below.

REASONS

5. **ISSUE No. 1 and 2** : Both these issues are inter-connected. The subsequent issue i.e. (issue No. 2) depends on the earlier issue i.e. (Issue No. 1), therefore those are answered together.

After carefully scanning the oral evidence of the parties available on record it seems that, the party no. 2 deposed that he was working since 1998 at Khuthav Telephone Exchange with party no. 1 and he used to perform various work such as cleaning office, fetching water, cleaning the batteries, digging the pits for cable work, to join the cables and over head wires as per the instruction of Mr. Tiwari, JTO and after his transfer Mr. Ovhal, JTO was giving instructions regarding the work. He was getting wages in signing ACG-17, and after taken over by BSNL, he was getting salary by cash and not on ACG-17.

Though the party no. 2 has specifically pleaded in the statement of claim that his attendance was being recorded in the muster roll, however the party no. 2 never deposed about the same before the court. Moreover the party no. 2 admitted that Mr. Ovhal, JTO never obtained his signatures on ACG-17.

6. It has come on record through oral evidence adduced on behalf of the party no. 1 that, there was ban to the recruitment on employment of casual labours for any type of work. Since 1990 the party no. 1 started giving the work of excavating trenches, laying and jointing underground telephone cable, erection of DO and pillars in the rural areas to the contractors. He further deposed that the party no. 2 never worked during 16-3-97 to 30-3-02 and never worked with him as regular employee or as a casual labour and or casual employee under JTO Kedgaon, the payment of wages were never made to the party no. 2 by party no. 1 nor signatures were obtained on ACG-17 nor on any other documents. The party no. 2 was never employee of the Department of Telecommunication and never worked under the supervision and control of JTO, Kedgaon. His name was not on muster roll nor the party no. 2 was paid any time by the JTO. The witnesses were fully cross-examined by the party no. 2, however they could not bring any substantial material on record.

From the above discussed evidence available on record it can be safely infer that the party no. 2 was not on muster roll nor on pay roll of JTO Kedgaon. The work performed by the party no. 2 appears to have been given to the contractor and casual labours were not getting their wages on ACG-17. Under such circumstances it is very difficult to accept that party no. 2 was working as a casual labour with party no. 1.

7. After considering the oral evidence available on record let us consider the documentary evidence relied by the party no. 2 to substantiate their claim before the court. It reveals that during the proceedings the party no. 2 sought production of ACG-17 regarding payment of wages made by JTO Kedgaon alongwith monthly work orders, however the party no. 1 denied the maintenance of such record therefore my learned Predecessor observed that the party no. 2 may produce the secondary evidence to that effect and accordingly rejected the application, however no such documents are placed on record.

Moreover it reveals that the party no. 2 relied on some documents which are placed before the court alongwith list Exh. U-4. On careful perusal of those documents it seems that, by document Exh. U-8 certain direction were given by Mr. Ovhal to Mr. Thorat about the work, however those directions were given on 4-10-03 i.e. after the period of termination of the party no. 2, therefore not useful to decide about the employment of the party no. 2 with the party no. 1 during 1998 to 31-12-99 and merely on that basis it is very difficult to accept that the party no. 2 was working with party no. 1 as casual employee.

8. Furthermore in spite of direction to produce the secondary evidence regarding the ACG-17 i.e. in respect of payment made to the party no. 2 no attempts were made on behalf of party no. 2 to bring such material before the court. In fact though the party no. 2 stated on oath that his attendance was recorded on muster attendance rolls however there is no explanation as to why the production of those muster rolls was not sought by the party no. 2 from the party no. 1 and in absence of that by no stretch of imagination it can be said that party no. 2 was working as casual employee on muster roll of the party no. 1 and he was being paid wages on pay rolls.

Much reliance has been placed by the party no. 2 on xerox copies of documents Exh. U-9. On perusal of these documents it seems that this is a proforma prescribed for part time casual labour and bears the signature of party no. 2. However there is no whisper in the proforma that the party no. 2 worked as casual employee any time with the party no. 1 thus merely on the basis of certain working days of 1998 to 1999 it cannot be inferred about casual employment of the party no. 2 with the party no. 1. Furthermore though the witness of the party no. 1 admitted his signatures appeared on the proforma, however denied that the party no. 2 was working under his control. Not only this but there is no mention in the proforma that to whom it was submitted by the party no. 2. Similarly the material columns of the proforma appears to be blank, therefore, I do not think that these documents are any way helpful to the party no. 2 to show that he was working as casual labour with party no. 1.

9. From the above discussed oral as well as documentary evidence available on record, I reiterate that the party no. 2 was never worked as casual or regular employee with the party no. 1. He was not on the muster roll of party no. 1 nor paid the wages on payrolls like daily wages employee or casual employee by JTO Kedgaon. party no. 2 was never under supervision and control of JTO Kedgaon of the party no. 1. Moreover the work which was performed by the party no. 2 was given to the contractor, and contractor used to make the payment to the employees working under him, therefore it is very difficult to accept that the party no. 2 was employee of the party no. 1, at the most the party no. 2 appears to be an employee of the contractor and not of party no. 1, hence these issues are answered accordingly.

10. **ISSUE No. 3 :** I have observed earlier that the party no. 2 was not the employee of the party no. 1 it means there is no relationship of employer and employee between the party no. 1 and party no. 2 and in absence of that there is no question of continuous service as well as the compliance of the provisions of law while terminating the services of the employee therefore this issue does not survive, hence I answer this Issue accordingly.

11. **ISSUE No. 4 :** I have observed earlier that the party no. 2 is not the employee of the party no. 1 and in absence of relationship of employer and employee between the party no. 1 and party no. 2, the party no. 2 is not entitled for any protection under law and party no. 2 is not entitled for any relief as prayed.

It is pertinent to note here that, in the statement of claim the party no. 2 has specifically stated that even after termination w.e.f. 31-12-99 he was taken in service and since then he was working with party no. 1 under JTO Kedgaon till 30-11-03. The party no. 2 further stated that there is sufficient full time work under SDE Daund at Kedgaon and other places and at other stations with the party no. 1 and he could be absorbed in regular vacant post, therefore prayed for direction to the party no. 1 to absorb him in regular vacancy in group-D from 1-1-2000 with the consequential benefits. In fact I have observed earlier that party no. 2 was not an employee of the party no. 1, therefore not entitled for any relief as prayed, nor there is question of any direction to the party no. 1 to absorb the party no. 2 in regular employment of the party no. 1.

It is worthwhile to mention here that by this reference the dispute regarding the termination of party no. 2 w.e.f. 1-1-2000 has been referred to this court for adjudication and except that no other issue has been referred to this court for adjudication, so the claim made by the party no. 2 regarding absorption in regular employment of the party no. 1 is certainly not within the ambit of the Reference referred for adjudication therefore this court has no jurisdiction to adjudicate the same and grant relief accordingly. In brief the party no. 2 is not entitled for relief as prayed, hence I answer this Issue in the negative.

In the result I proceed to pass the following Award.

AWARD

1. The Reference is answered in the negative.
2. Party no. 2 is not entitled for any relief as prayed.
3. Parties to bears their own costs.
4. Copies be sent to the appropriate authorities.

Pune :

Date: 19-7-2008

SHRIKANT K. DESHPANDE, Industrial Tribunal

नई दिल्ली, 5 सितम्बर, 2008

का. अ. 2593 — केन्द्रीय सरकार, खान अधिनियम, 1952 (1952 का 35) की धारा 3 की उपधारा 1 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्वारा, अगले आदेशों तक निम्नलिखित अधिकारियों को मुख्य निरीक्षक खान के अधीनस्थ खान निरीक्षक के रूप में नियुक्त करती है :-

1. श्री मृषण प्रसाद सिंह
2. श्री देव कुमार
3. श्री श्याम सुन्दर प्रसाद

4. श्री राजोब पाल
5. श्री बिपुल बिहारी सतियार
6. श्री कमल कुमार शर्मा
7. श्री रामअवतार मीणा
8. श्री मनोरंजन डोले

[फा. सं. एस-29025/1/2008-आईएसएच-11]

सुभाष चन्द, अवर सचिव

New Delhi, the 5th September, 2008

S.O. 2593.—In exercise of the powers conferred by sub-section (1) of Section 5 of the Mines Act, 1952 (35 of 1952), the Central Government hereby appoints the following officers as Inspector of Mines sub-ordinate to the Chief Inspector of Mines, until further order :—

1. Shri Bhushan Prasad Singh
2. Deo Kumar
3. Shyam Sunder Prasad
4. Rajib Pal
5. Bipul Bihari Satiar
6. Kamal Kumar Sharma
7. Ramawater Meena
8. Manoranjan Doley

[F.No. S-29025/1/2008-ISH.11]

SUBHASH CHAND, Under Secy.

नई दिल्ली, 8 सितम्बर, 2008

फा. आ. 2594.—केंद्रीय सरकार, शिक्षा अधिनियम, 1961 (1961 का 52) की धारा 2 के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और केंद्रीय शिक्षा परिषद् से परामर्श करने के पश्चात् उक्त अधिनियमों के प्रयोजनों के लिए प्रौद्योगिकी के क्षेत्र में, निम्नलिखित विषयों को अभिहित व्यवसायों के रूप में विनिर्दिष्ट करती है, अर्थात् :—

"स्नातक और तकनीकी प्रशिक्षु

1. टैक्सटाइल डिजाइनिंग
2. जैव-प्रौद्योगिकी
3. इलेक्ट्रॉनिक्स और जैव-चिकित्सीय इंजीनियरी
4. इलेक्ट्रॉनिक्स और संचार इंजीनियरी
5. बायोमेडिकल इंस्ट्रुमेंटेशन इंजीनियरी
6. फैशन प्रौद्योगिकी
7. गारमेंट और फैशन प्रौद्योगिकी
8. आधुनिक कार्यालय व्यवहार प्रबंधन
9. हर्बल प्रौद्योगिकी
10. यात्रा और पर्यटन प्रबंधन

तकनीकी (वृत्तिक) प्रशिक्षु

1. आटोमोबाइल इंजीनियरी प्रौद्योगिकी
2. आटोमोबाइल मैकेनिक
3. सूचना प्रौद्योगिकी
4. रेडियो और टेलीविजन इंजीनियरी
5. इलेक्ट्रॉनिक्स प्रौद्योगिकी

[फा. सं. डीजीईटी-23(13)(3113)/2008-एपी]

तरसेम लाल, उप सचिव

New Delhi, the 8th September, 2008

S.O. 2594.—In exercise of the powers conferred by clause (e) of Section 2 of the Apprentices Act, 1961 (52 of 1961), and after consultation with the Central Apprenticeship Council, the Central Government hereby specifies the following subject fields in technology as designated trades for the purposes of the said Act, namely :—

"Graduate and Technician Apprentices

1. Textile Designing
2. Bio-Technology
3. Electronics and Bio-Medical Engineering
4. Electronics and Communication Engineering
5. Bio-Medical Instrumentation Engineering
6. Fashion Technology
7. Garment and Fashion Technology
8. Modern Office Practice Management
9. Herbal Technology
10. Travel and Tourism Management

Technician (Vocational) Apprentices

1. Automobile Engineering Technology
2. Automobile Mechanic
3. Information Technology
4. Radio and Television Engineering
5. Electronics Technology

[F.No. DGET-23(13)(3113)/2008-AP]

TARSEM LAL, Dy. Secy.

नई दिल्ली, 22 अगस्त, 2008

फा. आ. 2595.—जबकि केंद्र सरकार का विचार है कि केंद्र, कर्नाटक और तमिलनाडु राज्यों में बागान कर्मचारी की श्रेणी में कर्मचारों और बागान नियोजकों के बीच औद्योगिक विवाद है:

और जबकि केन्द्र सरकार का विचार है कि उक्त विवाद इस प्रकृति का है कि इससे संबद्ध या प्रभावित बागान कर्मचारियों की श्रेणी में कर्मकार और बागानों के नियोक्ता एक से अधिक राज्य से संबद्ध हैं और इसका न्यायनिर्णय राष्ट्रीय न्यायाधिकरण द्वारा किया जाना चाहिए;

और जबकि केन्द्र सरकार ने औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7 (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्रम मंत्रालय की दिनांक 12 जुलाई, 2000 की अधिसूचना संख्या एल-51014/1/2000-आई आर (पीजी) द्वारा राष्ट्रीय न्यायाधिकरण का गठन किया, जिसका मुख्यालय कलकत्ता में रखा गया, और जस्टिस श्री बी.पी. शर्मा को इसका पीठासीन अधिकारी नियुक्त किया और उक्त अधिनियम की धारा 10 की उप धारा (1क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त औद्योगिक विवाद को न्यायनिर्णय हेतु उक्त राष्ट्रीय न्यायाधिकरण को संदर्भित किया।

और जबकि जस्टिस श्री बी.पी. शर्मा ने उक्त राष्ट्रीय न्यायाधिकरण का कार्यभार 2003 में छोड़ दिया।

अतः अब राष्ट्रीय न्यायाधिकरण का गठन किया जाता है जिसका मुख्यालय कोलकत्ता होगा और जस्टिस श्री सी.पी. मिश्रा इसके पीठासीन अधिकारी होंगे और उक्त विवाद को न्यायनिर्णयार्थ उक्त राष्ट्रीय न्यायाधिकरण को इस निदेश के साथ संदर्भित किया जाता है कि जस्टिस श्री सी.पी. मिश्रा इस मामले में जस्टिस श्री बी.पी. शर्मा द्वारा कार्यभार छोड़ने के चरण से आगे की कार्यवाही करेंगे और इसका विधि के अनुरूप निपटान करेंगे।

[सं. एल-51014/1/2000-आई आर (पीजी)]

कल्याणी मिश्रा, उप निदेशक

New Delhi, the 22nd August, 2008

S.O. 2595.—Whereas the Central Government was of the opinion that an industrial dispute existed between the workmen in the category of plantation staff and the employers of plantations in the states of Kerala, Karnataka and Tamil Nadu,

And whereas the Central Government was of the opinion that the above dispute was of the nature that workmen in that category of plantation staff and employers of plantations belonged to more than one State are interested in, or affected, by such a dispute and should be adjudicated by a National Tribunal;

And whereas the Central Government in exercise of the powers conferred by Section 7(B) of the Industrial Disputes Act, 1947 (14 of 1947) constituted a National Tribunal vide Ministry of Labour's Notification No. L-51014/1/2000-IR(PG) dated 12th July, 2000 with headquarters at Calcutta and appointed Justice Shri B.P. Sharma as its Presiding Officer and in exercise of the powers conferred by sub-section (1A) of Section 10 of the

said Act, referred the said industrial dispute to the said National Tribunal for adjudication.

And whereas Justice Shri B.P. Sharma relinquished charge of the above said National Tribunal in 2003.

Now, therefore, a National Tribunal is constituted with headquarters at Kolkata with Justice Shri C.P. Mishra as its Presiding Officer and the above said dispute is referred to the said National Tribunal for adjudication with the direction that Justice C.P. Mishra shall proceed in the matter from the stage at which it was left by Justice Shri B. P. Sharma and dispose of the same according to law.

[No. L-51014/1/2000-IR(PG)]

KALYANI MISHRA, Dy. Director

नई दिल्ली, 2 सितम्बर, 2008

का. आ. 2596.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 10/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-8-2008 प्राप्त हुआ था।

[सं. एल-12011/28/1997-आई आर (बी-11)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 2nd September, 2008

S.O. 2596.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. No. 10/98 of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of Union Bank of India and their workmen, received by the Central Government on 19-08-2008.

[No. L-12011/28/1997-IR (B-II)]

RAJINDER KUMAR, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 10/98

रैफरेंस: केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल.-12011/28/97-आई आर (बी. II) दि. 21-4-1998

सर्वश्री कन्हैया लाल एवं हनुमान प्रसाद जूरिये महासचिव, यूनियन बैंक एम्प्लॉईज यूनियन, 49, रघुविहार, महाराजी कॉम्प, दुर्गापुरा, जयपुर।

—प्राधी

बनाम

सहायक महाप्रबन्धक, यूनियन बैंक ऑफ इंडिया, एस.डी.एम.
अस्पताल परिसर, बापू नगर, जयपुर ।

—अप्राथीगण

उपस्थित

पीठासीन अधिकारी: श्री गौतम प्रकाश शर्मा, आर.एच.जे.एस.

प्राथी की ओर से : श्री आर. सी. जैन

अप्राथी की ओर से : श्री रूपिन काला

दिनांक अवाई : 25-7-2008

अवाई

1. केंद्र सरकार, श्रम मंत्रालय, नई दिल्ली ने उपरोक्त अधिसूचना के जरिये इस आशय का विवाद इस न्यायाधिकरण को अधिनियम हेतु निर्देशित किया है कि

"Whether the action of the management of Union Bank of India, Jaipur in not regularising the services of S/Shri Kanhaiya Lal and Hanuman Prasad part time sweepers as peon in violation of Banks own the said workmen are entitled to and from which date ?

2. विवाद जो भेजा गया उसके संबंध में प्राथी की ओर से स्टेटमेंट ऑफ क्लेम पेश हुआ कि श्रमिक श्री कन्हैया लाल को अंशकालीन सफाईकर्ता के पद पर अंचलीय कार्यालय नई दिल्ली के पत्र दिनांक 24-5-1990 के द्वारा 200 रुपये प्रतिमाह पर बैंक की चम्पनग शाखा जिला भीलवाड़ा में नियुक्ति दी गई जहां प्राथी ने 2-7-1990 को कार्य ग्रहण किया और 1-1-1991 से उसे बैंक सेवा में कन्वर्स कर दिया । प्राथी निर्देशानुसार 1997 तक नियमित चपरासी की तरह बिना अबरोध कार्य करता रहा । बैंक द्वारा 3-1-1997 को अंशकालीन चपरासियों को व अन्य कर्मचारियों को पूर्णकालीन चपरासी व हमाल के पद पर नियुक्ति देने हेतु परिपत्र जारी किया जिसमें प्राथी ने भी आवेदन किया और उसे साक्षात्कार हेतु भी आमंत्रित किया गया किन्तु दुर्भाग्य के कारण चपरासी के पद पर नियुक्ति हेतु उसकी अनुशांसा नहीं की गई जबकि उसके पिछले कार्यों व निष्ठा को देखते हुए उसका चयन चपरासी के पद पर किया जाना चाहिए था । इस प्रकार प्राथी यूनियन का कथन है कि प्राथी श्रमिक का पद परिवर्तन हेतु चयन नहीं किया जाना श्रम विरोधी नीति है, अतः निवेदन किया कि प्राथी श्रमिक चपरासी पद पर नियमितकरण/पद परिवर्तन करवाने का अधिकारी है अतः उसे पद पर पूर्व सेवाओं की निरन्तरता में चपरासी के पद पर नियमित किया जावे ।

3. अप्राथी बैंक की ओर से जवाब पेश हुआ जिसमें बताया कि अंशकालीन सफाईकर्ता से चपरासी के पद पर पदोन्नति या परिवर्तन

की एक निश्चित प्रक्रिया है और उसके लिए प्राथी श्रमिक का आवेदन देना और उसे साक्षात्कार में बुलाने का अर्थ नियुक्ति हो जाना नहीं है, यह साक्षात्कार में उपस्थित होने हेतु सूचना मात्र है, नियुक्ति होना या न होना चयन प्रक्रिया के परिणाम पर निर्भर करता है । अपने कार्य के अतिरिक्त प्राथी श्रमिक ने जो चपरासी का कार्य किया है उसके लिए उसे भुगतान कर दिया गया था । अब वह किसी अनुतोष प्राप्त करने का अधिकारी नहीं है अतः क्लेम खारिज होने योग्य बताया ।

4. इसी रैफरेंस में अन्य श्रमिक हनुमान प्रसाद का मामला भी भेजा गया था किन्तु हनुमान प्रसाद की ओर से स्टेटमेंट ऑफ क्लेम पेश नहीं हुआ और न ही हनुमान प्रसाद की ओर से कोई साक्ष्य पेश हुई है ।

5. प्रकरण में श्रमिक कन्हैया लाल की ओर से एवं अप्राथी बैंक की ओर से साक्ष्य पेश हुई और प्रकरण बहस अंतिम में रखा गया । इसी प्रकरण पर दिनांक 22-7-2008 एक समझौता श्रमिक व अप्राथी बैंक के मध्य 18-7-2008 को हो जाने संबंधी पेश किया व समझौता हो जाने से समझौते की शर्तों के अनुसार ही अवाई पारित करने की प्रार्थना की ।

6. समझौते के संबंध में संलग्न आवेदन जो कि स्वयं श्रमिक की ओर से पेश हुआ है, में स्पष्ट उल्लेख किया गया है कि उसके व बैंक के मध्य समझौता हो गया है और प्रकरण को वह आगे चलाना नहीं चाह रहा है तथा समझौते के अनुरूप ही अवाई पारित करने की प्रार्थना की । मैंने समझौते को देखा । समझौता प्रपत्र पर श्रमिक व विपक्षी बैंक की ओर से वरिष्ठ प्रबन्धक के हस्ताक्षर हैं । इन सभी तथ्यों को देखते हुए मैं इस प्रकरण में समझौते के अनुसार अवाई पारित किया जाना उचित समझता हूँ । अतः राज्य सरकार द्वारा भेजे गये निर्देश का उत्तर निम्न प्रकार दिया जाता है :

"प्राथी श्रमिक कन्हैया लाल एवं अप्राथी बैंक के मध्य समझौता हो जाने से प्रकरण में उक्त समझौते की शर्तों के अनुसार अवाई पारित किया जाला है ।

समझौता दिनांक 18-7-2008 जो 22-7-2008 को पेश हुआ अवाई का अंग रहेगा । प्राथी हनुमान के संबंध में कोई क्लेम व साक्ष्य पेश नहीं होने के कारण प्राथी हनुमान प्रसाद कोई अनुतोष प्राप्त करने का अधिकारी नहीं है ।"

5. अवाई आज दिनांक 25-7-2008 को खुले न्यायालय में लिखाया जाकर सुनाया गया जो केंद्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे ।

गौतम प्रकाश शर्मा, पीठासीन अधिकारी